

Town of Austerlitz  
Planning Board Meeting  
April 1, 2021

The April 1, 2021 Planning Board Meeting was held via Zoom in accordance with the Governor's Executive Order 202.1. Meeting instructions were on the Town website.

Present: Lee Tilden, Chair, Deborah Lans, Jane Magee, Eric Sieber and Perry Samowitz, Members. Susan Haag, Town Clerk also present.

Joseph Catalano, Attorney for the Town, joined the meeting at 7:35 p.m.

Meeting called to order at 7:02 P.M.

Moment of Silence, followed by Pledge of Allegiance.

**Minutes**

A motion to accept the March 4, 2021 Public Hearing and Regular Planning Board Meeting minutes was made by P. Samowitz and seconded by J. Magee.

Roll call

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: abstain

Perry Samowitz: yes

Jane Magee: yes

Motion carried 4:1

**Old Business**

**Planning Board Application PL-2021-01.**

Property Owner: 648 Rte 203 LLC, Dale Madsen

Applicant: Taconic Engineering, DPC, Andy Didio

Project Property: 648 State Route 203 SBL:86.-2-10

Zoning: Rural Residential

Project: The proposed project consists of building a 4800 sf building, 26.4' tall at ridge line, 1 story and using the building for storage of construction equipment and materials.

Planning Board Chairman Lee Tilden advised that E. Sieber, D. Lans and himself made a site visit to the project property on March 16, 2021.

Chairman Tilden questioned the applicant concerning how many vehicles will be involved with this project mobilizing on a daily basis. How many employees? Deliveries? Owner Dale Madsen noted that there are 3 service trucks that operate to and from the shop on a daily basis. One dump truck and 2 pick-up trucks leave the site in the morning and come back at night. D. Madsen continued that his wife would work part time in the office coming in mid-morning to early afternoon on a part-time, sporadic basis. There are no regular deliveries to the business address. Fed-Ex or UPS drops off supplies here and there, maybe once every couple of weeks.

There are no daily or weekly deliveries. Member Samowitz questioned how many employees will be bringing cars to the sight. D. Madsen stated there are currently 6 employees.

Member Lans notes that the site plan submitted for tonight's meeting is different from the previous plan. Applicant Andy Didio advises that the site plan submitted for tonight's meeting shows where the well will be located and screening trees that the Applicant added. The trees proposed are deer resistant and fast growing. Member Samowitz asked if there were any proposed screening trees to the north and south of the project. Applicant Didio advised there was not any additional screening proposed. The building will be built below grade with growth already in place in the rear of the property line. Same with the front since there is a fairly healthy tree line already there and with no intention of clearing this area. Without leaves on the trees during the winter, the building is somewhat visible. The east side has a tree line that is fairly dense and again there is no intention of clearing this area.

Member Lans asked if any material would be stored onsite. Owner Madsen advised that there would be some, but it would be under cover. Nothing major outside in plain sight. Applicant Didio noted that the idea is to use this material as soon as possible so it would only need short time storage.

Chairman Tilden questioned the Planning Board thoughts concerning the SEQRA form. L. Tilden does not believe this project rises to the level to require the long SEQRA form.

A motion to waive the use of the long EAF SEQRA form was made by E. Sieber and seconded by J. Magee.

By roll call vote:

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0.

Chairman Tilden read each section of the short SEQRA form with the following:

1. All agree with no/small impact
2. L. Tilden and J. Magee no/small impact; D. Lans, P. Samowitz and E. Sieber moderate impact.
3. All agree no/small impact
4. All agree no/small impact
5. L. Tilden, D. Lans, J. Magee and E. Sieber no/small impact; P. Samowitz moderate impact.
6. All agree no/small impact
7. First section: All agree no/small impact: Second section: All agree no/small impact
8. All agree no/small impact
9. All agree no/small impact
10. All agree no/small impact
11. All agree no/small impact

The Planning Board discussed section 3. Member Lans believes this is a change of use or intensity change from a residential to commercial use. The level of human interaction and the amount of property affected on a day-to-day activity basis. Member Magee feels this area already has commercial uses. Applicant Didio read the NYSDEC Guidelines on the meaning of these sections, specifically section 3. Based on these definitions, Member Sieber changes his mind on the impact of section 3 noting he feels there is no/small impact. Chairman Tilden advises that since there is now a majority that all section have no/small impact, there is no need to complete Part 3 of the SEQRA form.

A motion for a negative SEQRA declaration on Planning Board Project PL-2021-01 was made by E. Sieber and seconded by J. Magee

By roll call vote:

Lee Tilden: yes

Deborah Lans: yes notwithstanding her one issue

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0.

Chairman Tilden noted that the Planning Board has a completed application, additional comments, a public hearing, SEQRA, and asked if there are any other questions by the Planning Board.

Member Lans asked if more screening can be added to the south side. D. Madsen did not object to this request.

In formulating an approval resolution, Chairman Tilden advised that since a special use permit that is granted lives with the property, not the owner, restrictions placed are geared towards that end. A draft proposed resolution was read by Chairman Tilden and discussed by the Planning Board.

The following subjects were discussed in detail:

\*Site view pulling out of the driveway. Member Lans wants to write the NYSDOT concerning the accident potential. D. Lans and P. Samowitz believe that the traffic traveling down the hill will be going too fast and will cause an accident when someone is pulling out of the driveway. D. Lans notes this is not about the amount of traffic.

\*Storage of fuel onsite and whether to place restrictions here or not. Attorney Catalano advised to leave the language as is with an addition to it being subject to an amendment by site plan review.

\*A. Didio wants the allowance of temporary short-term storage of materials that are not for resale. Discussion on what temporary means. D. Madsen noted that at the current rented business site there is no outside equipment being stored. The equipment is on specific job sites. D. Madsen is concerned with not being able to have material outside. This is also not consistent with how other businesses in the area are operating. Materials are being stored outside. This request is very restrictive compared to the other businesses in the area. When asked how much

material and for how long it would be stored outside, D. Madsen answered that most of the time there would only be a few yards that is left over from a job. This material would be there for a very short-term basis. Only stored until needed for another job. Estimation of a triaxle load for no longer than a month. A triaxle load amounts to roughly 15 yeards. Chairman Tilden asked if the equipment will fit inside the building during off seasons. D. Madsen advised that he does not have an off season. The equipment comes and goes and any equipment that is onsite would only be there for a few days tops. Member Samowitz asked where the bulk material will be stored. D. Madsen advised on the east side which is the most protected from neighbors and also down in level. Discussion on how it could be determined which dirt pile is there for a month when dirt comes and goes, is added to and subtracted from. P. Samowitz would like screening in this area. Member Sieber noted that other contractors use cement blocks for screening and storage. Can this be done? A. Didio noted using these would help D. Madsen. Applicant Didio screen shared, pulling up the site plan and showed the Planning Board Members where screening could be done. A. Didio can add a contingency on the site plan for the Board Member's concerns. Chairman Tilden advised that the site plan should allow for storage of new, not old, material with no time limit up to a total of 20 yards. Member Lans asked if the material should be covered because of dust or dispersion. A. Didio noted that this only happens when unloading and loading.

\*A section was added to the proposed resolution concerning reviewing an updated site plan with modifications before giving a final site plan approval.

A motion to approve Resolution #1-2021, PL-2021-01, as presented to and revised by the Planning Board, was made by P. Samowitz and seconded by J. Magee.

#### Discussion:

Member Lans noted that concerns were raised with traffic issues and questioned if the resolution covers this. Attorney Catalano advised that if there are concerns with traffic this is an issue. J. Catalano noted that if the NYSDOT has approved the driveway entrance it would have first looked at the site distance, type of traffic on State Route 203 and the speed limit. If the NYSDOT has approved the driveway entrance it must have determined that there is sufficient site distance. The Planning Board can send a letter to the NYSDOT, but most likely they will not revisit this decision. Applicant Didio stated that according to the NYSDOT there is sufficient site distance per DOT standards. Member Samowitz asked if the Planning Board can request that signs are put up. Attorney Catalano advised that the Town has no jurisdiction over a State road, but the Planning Board can certainly ask the NYSDOT to look into this and ask for additional signage.

#### By roll call vote:

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0.

**Resolution #1-2021, Site Plan/Special Use Permit Application - 648 Rte 203, LLC**

**WHEREAS**, 648 Rte 203, LLC, a limited liability company with Dale Madsen as a member (hereinafter referred to as the “Applicant”) submitted an application for a special use permit and site plan review for purposes of constructing and operating a heavy equipment storage and office facility on an approximately 5.52-acre vacant parcel of property located at 648 Route 203 (Tax Map No. 86.-2-10) in the Town of Austerlitz (hereinafter the “Property”); and

**WHEREAS**, the application proposes to construct a building on the Property that will be one-story, 26.4 feet in height and comprising 4,800 square feet that is intended to be used for the storage of heavy construction equipment and an office for an excavation company; and

**WHEREAS**, the Applicant submitted a site plan application, dated January 25, 2021 which requested approval for the above-described proposal - the Planning Board considered the application as requiring both site plan and special permit review and the application was subsequently corrected to include both; and

**WHEREAS**, after review of the application and supporting documents, the Planning Board accepted the application as complete at its meeting held on February 4, 2021 and a public hearing on the special use permit and site plan application was duly noticed and scheduled for March 4, 2021; and

**WHEREAS**, the Applicant submitted a Short Form Environmental Assessment Form, with Part 1 completed, together with the application materials and at its February 4th meeting, the Planning Board determined the Application complete and determined that the proposed project constituted an Unlisted Action under the State Environmental Quality Review Act (SEQRA); and

**WHEREAS**, the application was referred to the Columbia County Planning Board as required under the General Municipal Law, and the County Planning Board, by letter dated February 16, 2021, concluded the application did not have any significant county-wide or inter-community impacts associated but made a number of comments on the application for consideration by the Austerlitz Planning Board; and

**WHEREAS**, the public hearing regarding the application was held remotely in person and via video-conference on March 4, 2021, at which time the Applicant’s representative Dale Madsen and Andrew Didio from Taconic Engineering were present and made a presentation to the Planning Board and there were four members of the public in attendance who spoke with respect to the application and one written comment received for the hearing was read; and

**WHEREAS**, after the Applicant and representatives answered all of the questions that were posed by the Planning Board, the floor was open to the public of which all that were present were given a full and fair opportunity to be heard, and after further questioning of the Applicant by the Board and acknowledgement that all written comments that were received up to the present time would be made part of the hearing record, the Planning Board closed the hearing by motion; and

**WHEREAS**, on March 16, 2021, the Planning Board Chair, and Members Lans and Sieber, visited the site with the Applicant’s engineer in order to see the site and the surrounding properties but they did not deliberate on the application or receive any additional information that had not already been discussed at the hearing; and

**WHEREAS**, since the public hearing, additional written comments have been received as follows: letter, dated March 25, 2021, from attorney James Potter representing James and Mary Mannion; and Steve Lobel; and

**WHEREAS**, after consideration and review of the above, the Planning Board is ready to make its decision on this Application;

**NOW, THEREFORE, BE IT RESOLVES** as follows:

1. The Planning Board makes the following findings:
  - a. Proposed Improvements: This special permit and site plan application proposes to construct, install and operate a commercial storage and office facility on the Property located at 648 Route 203 in the Town of Austerlitz. The facility is proposed to consist of one building that will be one-story, 26.4 feet in height, and comprising 4,800 square feet that is intended to be used for the indoor storage of heavy construction equipment and an office for an excavation company. A parking area for the employees of the business consisting of 10 parking spaces is also included in the site plan. There is an existing driveway that will be extended and will be resurfaced. The site will also be improved by a septic system and water well which is pending Columbia County Department of Health review and approvals.
  - b. Proposed Use: The Applicant proposes to utilize the proposed improvements for rental to an excavation business known as Madsen Excavation now located at 397 West Hill Road in Austerlitz. The site will be utilized to store its trucks and equipment inside the building and will be the business’s principal base and office. The business currently has 6 employees plus the owner and his wife who works in the office. The business operates year-round. The Applicant stated that there will be no outdoor storage of construction materials, supplies or equipment except for under lean-to attached to proposed building. The office proposed inside the building will accommodate the business employees. A more detailed description of the proposed use of the Property entitled “Project Narrative” is attached hereto and made a part hereof.
  - c. Zoning: The Property is in the Rural Residential district of the Town. The Planning Board has identified the proposed use as being under the category of a Construction and Lawn Care Businesses which are an allowed use in the Rural Residential district upon issuance of a special permit and site plan approval. The Zoning Code defines the term “Construction and Lawn Care Businesses” as follows: “The principal location of a business engaged in residential or commercial construction and general contracting; excavation, plumbing, electrical, landscaping, lawn care or similar business.” After hearing further details from the Applicant, the Planning Board hereby confirms its interpretation of the application as properly categorizing the use as a Construction Business.

d. Public Comment: The public hearing on the Application was held and closed on March 4, 2021. At the public hearing, the Applicant (and representatives) made presentations detailing the various components of the proposal, the Planning Board asked the Applicant numerous questions and received satisfactory responses to those questions, and comments were made by neighbors of the property and the general public. All the information provided by the Applicant and all of the public comments have been taken into consideration by the Planning Board in its deliberation on this matter.

2. SEQRA: Along with the application form and materials, the Applicant submitted a short environmental assessment form (EAF) pursuant to SEQRA. The Planning Board reviewed the EAF at its meeting held on February 4, 2021 after receiving a complete application. The Planning Board made the initial determination that the Application is considered an Unlisted Action under SEQRA and there are no other involved agencies as that term is defined under SEQRA. The Planning Board decided to await for further information that may be gathered at the public hearing before making a SEQRA determination. The Planning Board has reviewed the EAF with Part 1 prepared by the Applicant together with all of the application submissions. Prior to the presentation of this Resolution, the Planning Board discussed and determined that the Short EAF was acceptable under the SEQRA regulations and it hereby waives the requirement set forth in Zoning Code section 195-30(C)(1) for a long form EAF for a site plan application pursuant to its authority to do so as set forth in Zoning Code section 195-31(B). Such waiver is based on the fact that the project information submitted as part of the application materials provided sufficient supplemental environmental information the fact that proposed project is an allowable use by permit with limited commercial vehicle traffic. Also prior to the presentation of this Resolution, the Planning Board discussed and answered the questions on Part 2 of the EAF. In so doing, the Planning Board did not find any moderate or large or potential adverse environmental impacts that would result from the proposed improvements and use as it is proposed by the Applicant. The Planning Board based such determination mainly on the facts that the proposed improvements and use will result in minimal impact . The Planning Board hereby accepts the EAF as complete and determines that the issuance of a special use permit and site plan approval for the proposed use will not result in any significant environmental impact and, as such, a negative declaration applies. The reasoning for this determination is as follows:

- a. that the application does not propose any significant new construction or installation that is not in keeping with the environmental conditions of the Property;
- b. that the Property is of sufficient size and character that will adequately support the proposed new building, parking, drainage, on-site septic and water systems and driveway without any significant adverse impact to neighboring properties;
- c. that the Property driveway and parking that is proposed will be adequate to accommodate the relatively small amount of traffic that the use will generate;
- d. that the stormwater drainage system designed to accommodate stormwater runoff from access driveway and parking area together with the building is sufficient to manage the stormwater runoff generated from the impermeable surfaces proposed and prevent same from entering neighboring properties;
- e. the rural residential nature of the area will not be altered in accommodating this added use and it will be mostly hidden from public views so it will not result in a new or uncharacteristic feature in the area; and

f. the conditions and restrictions placed on the special use permit as set forth below and as discussed with the Applicant during the review process will further mitigate and/or eliminate any potential environmental concerns.

3. The Planning Board hereby approves and grants the special use permit and site plan approval to the Applicant as set forth herein for a Construction Business comprising of indoor storage of equipment and machinery and an office for the business to be constructed, installed and operated at 648 Route 203 as shown on the site plan prepared by Taconic Engineering, DPC, dated 1/22/21 as last revised 3/19/21 (hereinafter referred to as the "Site Plan"), with the modifications discussed in the paragraphs below and subject to the following conditions and restrictions:

- a. The use allowed by this special permit and site plan approval is for only a Construction Business as described above and the attached Project Narrative with no other use permitted.
- b. The storage aspect of the proposed use is to be limited for only indoor storage and no outdoor storage of construction vehicles, equipment, materials or supplies is allowed except for materials in an area to be delineated on the site plan and occasional temporary storage of equipment for no more than a week in an area also to be delineated on the site plan.
- c. All outdoor lighting shall be limited to what is proposed on the building and shall be shielded and directed downward to avoid glare. The driveway and parking area shall not be illuminated by lighting fixtures.
- d. The Applicant shall provide the additional screening as shown on the revised site plan and also the addition of 5 similar spruce trees on south side such screening shall be continuously maintained in good condition.
- e. There shall be no operation of equipment on the Property except what is necessary for loading, unloading, maintenance and repairs and that should be limited to those hours set forth on the Project Narrative.
- f. There shall be no dumping or storage of construction debris either in bulk or in dumpsters.
- g. There shall be no on-site bulk storage of fuel for the trucks or equipment except by amendment of the site plan and review and approval of DEC.
- h. Any changes in the site plan or in the above terms, restrictions and conditions of the special permit will require approval of the Planning Board before such changes can be implemented.
- i. The site plan modifications indicated above shall be presented to the Planning Board for its further review and approval.

4. This special permit has been issued pursuant to the criteria set forth in section 195-33 and section 195-28 of the Austerlitz Zoning Law after the Planning Board has duly considered the public health, safety and welfare, potential environmental impacts and surrounding properties; the Planning Board concludes that the proposed project together with the conditions imposed above comply with said criteria as follows:

- a. **Objectionable Impacts.** That the character, nature, type, scale and intensity of the proposed use, particularly how it will be operated, and its location and distance from adjacent roads, properties and residences, is consistent with the rural character of the Town

and is not more objectionable to nearby properties by reason of noise, odors, vibration, dust, illumination or other potential nuisance than the operation of any allowed use in the district.

- b. Compatibility. That the proposed use is of a character, nature, type, scale and intensity compatible with the area in which the special use is to be located since the construction business will be located at a considerable distance from roads and adjoining properties and will fit in with the farm fields, general topography, existing trees and vegetation on the Property.
- c. Vehicular Access and Traffic. That the existing roads are adequate for access and the new use will not cause any significant changes in current traffic patterns. The Planning Board is in receipt of a communication from the NYS DOT, dated January 20, 2021, which indicates that the DOT has reviewed and approved the proposed driveway and the Planning Board defers to the DOT's jurisdiction and expertise that traffic safety issues resulting from the driveway access onto and from Route 203 has been addressed. The parking area is more than adequate for parking for the limited use approved herein.
- d. Historic character. That the design of the proposed campground and its placement on the Property will not alter the traditional and historic character of the Town, the Property, and the surrounding area.
- e. Site Plan. That the proposed use and development is consistent with the requirements for site plan approval and the Site Plan is hereby approved, and the Planning Board Chair is authorized to sign the Site Plan, as approved, for the purposes described herein.

Chairman Tilden asked Applicant Didio to submit a revised site plan to the Planning Board for approval at the May Planning Board Meeting.

Applicant Didio and Owner Madsen thanked the Planning Board for their consideration and time. A. Didio will have an updated site plan for the next meeting.

### **Planning Board Application PL-2021-02**

Property Owner: Goosetown Network Services LLC

Applicant: Richard Zajac/Crown Castle as agent for T-Mobile

Project Property: 321 West Hill Road SBL:87.-2-51.112-1

Zoning: Rural Residential

Project: The proposed project consists of T-Mobile proposing to add eight (8) antennas and ancillary equipment to existing cell tower. T-Mobile also proposing a 16'x21' compound expansion to accommodate new equipment cabinets as well as a 40 kw diesel backup generator.

Chair Tilden noted that there was a letter from Goosetown Network Services LLC giving authorization to R. Zajac to act in consideration of this proposed modification and paperwork showing where this tower would land if it fell. Applicant Richard Zajac advised that the engineer's report shows that this tower is able to sustain the additional load.

R. Zajac gave a brief overview of the project noting the proposed project consists of T-Mobile proposing to add eight (8) antennas and ancillary equipment to existing cell tower. T-Mobile

also proposing a 16'x21' compound expansion to accommodate new equipment cabinets as well as a 40 kw diesel backup generator.

A motion to designate Planning Board Application PL-2021-02 as an unlisted action under SEQRA was made by J. Magee and seconded by P. Samowitz.

By roll call vote:

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0.

A motion to accept Planning Board Site Plan Application PL-2021-02 as complete was made by D. Lans and seconded by J. Magee.

By roll call vote:

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

A motion to schedule a public hearing for Planning Board Site Plan Application PL-2021-02 for May 6, 2021 at 7:00 p.m. via Zoom was made by D. Lans and seconded by E. Sieber.

By roll call vote:

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

Chairman Tilden advised that since there seems to be an issue with the US Postal System time in delivery, he asked that the notices to the neighbors be sent out as soon as possible. Member Lans would like the neighbors to be notified as soon as possible.

### **New Business**

#### **Planning Board Application PL-2021-03**

Property Owner: Cosimo and Charles Vieni

Applicant: David Vieni, Trustee for Charles Vieni

Project Property: Stonewall Road SBL: 87.-2-6

Zoning: Rural Residential

Project: Boundary Line Adjustment

Applicant David Vieni came before the Planning Board explaining that as the family was trying to sell property on Stonewall Road it came across an issue with boundary lines. Property owned by Michael Tessitore, the neighboring parcel owner, does not line up with the current deed and the family needs clear title in order to sell the property they want to sell. D. Vieni clarified the boundaries as shown on the provided map noting that Michael Tessitore's house is not on the current deeded parcel, but rather on land owned by Cosimo and Charles Vieni. This boundary line adjustment is to correct this by adding additional acreage to Michael Tessitore. D. Vieni also noted a 100 foot area of property accessing State Route 203 on the one side of the property that the family owns.

Attorney for the Town, Joseph Catalano, clarified that no new lot was being created. Because no additional lot is being created, the Planning Board can approve this boundary line adjustment by motion this evening if they agree to the proposed boundary lot adjustment. This is a type 2 action under SEQRA which does not require further SEQRA review or completion of the SEQRA form. Discussion on the 100 foot area of property accessing State Route 203.

A motion to declare Planning Board Project PL-2021-03 as a Type 2 action under SEQRA and to approve Planning Board Project PL-2-21-03 was made by J. Magee and seconded by P. Samowitz.

By roll call vote:

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0

Attorney Catalano questioned D. Vieni on how this boundary line adjustment was going to be handled to which D. Vieni noted the plan was to get a new survey with the boundaries corrected through a quick claim deed. Attorney Catalano advised that once the survey map is finalized, D. Vieni will need to provide 4 copies to Chairman Tilden for stamping; 2 are kept at the Town and 2 copies are for the County Clerk.

### **Miscellaneous**

Planning Board Member Lans believes that the Town Law 10 day public notice requirement does not give enough time to residents. There have been 2 instances where residents feel like they have been done wrong because they have not had enough time ahead of a public hearing to prepare. Attorney Catalano advised that the Town Law allows for more time than the State statute does and the Austerlitz Town Code, in his experience, is consistent with standard practice across the State. Chair Tilden notes that the postal mail delivery has been horrendous lately, although he is not sure about certified mail. The Planning Board does not look good when people do not go to the website for information and they do not get their mail in a timely fashion. Attorney Catalano advised that the public notices in the last couple of projects have worked because the neighbors have attended the public hearings and were able to make comments. The Planning Board can request that the notices are sent out earlier, but the law should not be changed. The fault is not with the Town, but rather the mail system. If the Planning Board feels

differently, it can advocate to the Town Board for a change in law. The current law is balanced between the rights of the public and the rights of the applicants. Established laws have been litigated by many courts and are a culmination of what works.

### **Public Comment**

Erlyn Madonia is concerned with the notice time frame as well asking what kind of problem does this pose for the Town if a resident gets a notice late. Attorney Catalano advises that if the public gets the notice before the public hearing the Town is legally covered. In addition, if the public does not feel like it has the time it needs, it can ask the Planning Board to keep the public hearing open. The Planning Board has the right to hold over a public hearing to help with these types of situations. E. Madonia notes that if situations change, the law should change to accommodate the changes in situations. Which situation makes the Town look like the Town is not meeting the needs of the people? It is about perception. Attorney Catalano advises that he agrees, but the law does not need to be changed to accommodate these needs. The Planning Board can put it's own requirements in place and in addition, the Planning Board has the authority to hold a public hearing open if it feels the public did not receive notices timely.

Planning Board Member Magee feels that since there is flexibility in the system, why change the law. Chairman Tilden understands the frustration, but after hearing an explanation from Attorney Catalano he realizes there is flexibility.

### **Adjournment**

A motion to adjourn was made by P. Samowitz and seconded by E. Sieber.

Lee Tilden: yes

Deborah Lans: yes

Eric Sieber: yes

Perry Samowitz: yes

Jane Magee: yes

Motion carried 5:0. Meeting adjourned at 9:46 p.m.

Respectfully Submitted,  
Susan Haag, Town Clerk