

---

## **REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010**

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

A regular meeting of the Town of Victor Planning Board was held on June 8, 2010 at 7:00 p.m. at the Victor Town Hall at 85 East Main Street, Victor, New York, with the following members present:

**PRESENT:** Dawn Grosso, Chairman; Dan Benulis, Vice Chairman; Joe Logan, Ernie Santoro, Robert Davis, Heather Zollo, Al Gallina

**OTHERS:** Mark Tayrien, Town Engineer; Wes Pettee, Town Engineer, John Wilson, Town Attorney; Kim Kinsella, Planning/Zoning Supervisor; Cathy Templar, Planning Secretary; Stephanie Richards, Conservation Board; John Palomaki, Town Board Liaison; Marge Elder, Michael Bogojevski, John Capezzuto, Piero Fergongi, Jack Dianetti, Norbert Hausner, Tim Fournier, Om Sud, Amid Sud, George Baker, Keith Nickoloff

### **APPROVAL OF MINUTES**

Approval of the May 25, 2010 minutes were held until the June 8<sup>th</sup> meeting.

### **BOARDS AND COMMITTEES UPDATES**

**Conservation Board** reported by Stephanie Richards:

- Natural Resource Inventory (NRI)
  - Town Board stated no need for any RFPs to start bidding process for NRI
- Marge Elder's comments regarding the NRI
  - Conservation Board hired native plant expert to do a manual
  - This manual is included in the pre-application folder
  - Intent is to facilitate movement towards native plantings by developers
  - Marge went through manual and explained parts of it
  - Conservation Easement drafts
    - No comments were received from the Planning Board
    - Quail Ridge comments regarding the type of easement proposed
      - Will hold comments until Quail is before the Board

**Planning Board** reported by Kim Kinsella  
June 22<sup>nd</sup> agenda

- Public Hearings
  - Macy's temporary tent

---

## **REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010**

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

- Special Use permit
- Victor Outparcel Development
  - Establishing Lead Agency
  - Resubdivision
- Decision
  - 127 Blazey Road
  - Victor Rod & Gun Club
  - Hyland Wind Turbine
  - 38 Eastview Mall
- Discussion
  - Kumpf Subdivision
  - Vincent & Suzanne Chang addition
  - LL Bean @ Eastview Mall
    - Traffic mitigation obligations
- New Application
  - VanBortel Used Car Center
    - Demolition of house on corner of Route 96/Route 251
  - Quail Ridge Crossing subdivision
  - Eastview Mall Light Pole
    - Located near Sears
- Informal Discussion
  - Auburn Meadows Subdivision (formally Bellevieu Haven)

Mr. Logan stated that Mr. Palomaki from the Historic Review Committee stated the committee expressed an interest on giving their view on the new building. Ms. Kinsella will check with the Town Historian.

### **PUBLIC HEARING**

127 BLAZEY ROAD PROPERTY

Blazey Road

Appl. No. 12-MS-10

Subdivision of 67.7 acres into two parcels. Lot 1 will consist of 9.16 acres with frontage along the west side of Blazey Road and proposes a single family house and the remaining 58.54 acres will remain with the existing house.

The legal notice was read by the Planning Board secretary which was printed in the Daily Messenger one time on June 1, 2010.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Chairman Grosso asked for any comments from the public and there were none.

Mr. Keith Nickoloff, land owner – We've owned the property for about 7+ years. Dan (Bajus) is my son-in-law and we wish to have our son-in-law, daughter, 2 grandchildren and 1 more on the way, live across the street from us so we are segmenting off a parcel of land. I'll let Dan do the rest of the talking.

Mr. Bajus – I had some notes but I'm pretty sure that everything on my notes were just said. Are there any questions?

Chairman Grosso – One of my questions may be directed towards Marge or Wes. I noted that there was a DEC classified stream in that area and I believe the property was in an Agricultural district. I was curious how you were going to address that or if you are going anywhere near the stream.

Martin Janda from BME Assoc. – There are no DEC classified streams. It's a Class C so it is not regulated by DEC. There are two tributaries running across the properties which was the comment that we got from the Conservation Board which will show on the plans. They basically run from the south to the north, they kind of ----- along the north property line. The whole a 75 ft corridor. I don't know if that will apply to this section of the ---- . I will leave it up to the Conservation Board but we are about 150 ft away with the development so we don't get close to it.

Chairman Grosso asked for any questions from the Board and there were none.

Mr. Pettee – We received a letter from BME Assoc. which was a request from our comment letter dated May 28, 2010. It looks like everything that we called out they are addressing or intend to address with the future drawings. We don't have any further concerns as long as at the next meeting if the resolution was prepared to take into account our original letter and comments dated May 28<sup>th</sup>.

Chairman Grosso – Thank you, any other comments? (There were none). You can anticipate at the next Planning Board meeting a resolution.

Mr. Nickoloff – I'd like to make one more comment. I'm very proud of my son-in-law. He is the newest business owner in downtown Victor, the Brownstone Physical Therapy right across the street. Dan's just received his doctorate in physical therapy.



---

## **REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010**

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

1. An application was received on April 20, 2010 by the Secretary of the Planning Board for a Minor Subdivision entitled Lands of Tomax Homes, Inc. Subdivision.
2. It is the intent of the applicant to combine Lot #1 consisting of .560 acres with Lot #2 consisting of .568 acres for a total of 1.128 acres for the construction of a single family home.
3. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Short Environmental Assessment Form was prepared.
4. The Conservation Board reviewed the Unlisted Action on May 4, 2010 and identified no significant impacts.
5. The Planning Board, as lead agency, found that there would be no significant impacts to the environment as a result of the action and directed that a negative declaration be prepared.
6. In a letter dated May 14, 2010, LaBella Associates stated that technical aspects remain to be addressed.

NOW, THEREFORE, BE IT RESOLVED, that the application of Piero Forgensì, Tomax Homes, Inc., 21 Waterworks Lane, Fairport, New York, Minor Subdivision entitled Lands of Tomax Homes, Inc. Subdivision, drawn by Babcock Land Surveying & Planning, dated March 10, 2010, received by the Planning Board April 20, 2010, Planning Board Application No. 11-MS-10, BE APPROVED WITH THE FOLLOWING CONDITIONS:

### **Conditions that must be met prior to the Chairman signing the minor subdivision plan:**

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the comments in a letter dated May 14, 2010 from LaBella Associates be addressed.
3. That before the Planning Board Chairman signs the approved film original(s), the developer should submit three (3) copies of electronic files to the Town, and then copies will be forwarded to the Town Engineer's office to confirm that the data on the electronic files are the same as the approved subdivision plans.

---

**REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010**

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

4. That Section 5.1 Standard Approval Conditions for all Subdivisions (Major & Minor) in the Design & Construction Standards be met.

**Conditions that are on-going standard conditions that must be adhered to:**

1. That the minor subdivision comply with Town of Victor Design and Construction Standards for Land Development, including Section 5.
2. That approved subdivision maps, including conservation easements, lot consolidations and lot line adjustments shall be submitted in digital format, Autocad 2002, or latest version, effective January 1, 2004 (per Town Board Resolution #193 of June 23, 2003).

AND, BE IT FURTHER RESOLVED, that the Planning Board Secretary distribute the appropriate standard conditions with the Planning Board's approval letter.

|               |         |
|---------------|---------|
| Dawn Grosso   | Aye     |
| Dan Benulis   | Recused |
| Joe Logan     | Aye     |
| Ernie Santoro | Aye     |
| Bob Davis     | Aye     |
| Heather Zollo | Aye     |
| Al Gallina    | Aye     |

Approved 6 Ayes, 0 Nays, 1 recused

*Mr. Benulis rejoined meeting.*

SOMERSET HILL, SECTION 3

Franlee Lane

Appl. No. 1-FS-10

Consisting of 13 lots of the overall 64 lot Franlee subdivision. Area consisting of 14.07 acres including 5.77 acres of HOA open space and conservation easement area. Section 3 has been designed as a cluster subdivision.

Chairman Grosso asked the Board if there were any questions and there were none.

---

## **REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010**

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Mike Bogojevski from BME had no further comments.

### **RESOLUTION**

On motion made by Ernie Santoro, seconded by Joe Logan

WHEREAS, the Planning Board made the following findings of fact:

1. An application was received on April 21, 2010 by the Secretary of the Planning Board for a Final Subdivision entitled Somerset Hill Subdivision, Section 3.
2. It is the intent of the applicant to subdivide 13 lots on 14.07 acres, including 5.77 acres of HOA open space and conservation easement area
3. The Planning Board reviewed a sketch plan for Franlee Subdivision on August 9, 2005 for a clustered residential subdivision with 37.2 acres of open space.
4. The Planning Board granted preliminary subdivision approval for Franlee Subdivision on August 22, 2006 for a clustered residential subdivision with 37.2 acres of open space, including conservation easements.
5. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Long Environmental Assessment Form was prepared.
6. The Planning Board, as lead agency, found that there would be no significant impacts to the environment as a result of the action and a negative declaration was prepared.
7. The Conservation Board reviewed the project on May 4, 2010 and stated that Lots 30, 31 and 32 do not fit the existing site, that it appears otherwise that significant leveling is needed to build the proposed houses. Particular attention should be paid to proper slope stabilization as the area is cleared and developed. No significant impact.
8. In a letter dated May 18, 2010, LaBella Associates stated that technical aspects remain to be addressed.
9. Since the Developer has not shown on the plat a park or parks suitably located for a playground or other recreational activities that are consistent with the Town Board's recreational policy to require a park land set aside within a residential subdivision development, a recreation fee is required.

---

## **REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010**

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

10. The Planning Board determines that based on the present and anticipated future need for park and recreational opportunities in the Town, to which the future population of this subdivision will contribute, park land should be created as a condition of approval of this subdivision.
11. However, since the lot area and ownership patterns do not suit the development of a park suitable to meet the requirement of this site, pursuant to Section 277 of the Town Law, the Planning Board requires that the Applicant deliver payment in lieu of park land dedication to the Town of Victor for 13 residential units prior to the building permits being issued.

NOW, THEREFORE, BE IT RESOLVED that the final subdivision application of Somerset Hill, LLC, 1478 Marsh Road, Pittsford, New York, Major Subdivision entitled Somerset Hill Subdivision, Section 3, drawn by BME Associates, Drawing No. 02 through 10, dated April 2010, received by the Planning Board April 21, 2010, Planning Board Application No. 1-FS-10, BE APPROVED WITH THE FOLLOWING CONDITIONS:

### **Conditions that must be met prior to the Chairman signing the final subdivision plan:**

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That comments in a letter dated May 18, 2010 from LaBella Associates, PC be addressed.
3. That comments from the Town of Victor Water Department be addressed.
4. That comments from the Town of Victor Building Department be addressed.
5. That before the Planning Board Chairman signs the approved film original(s), the developer should submit three (3) copies of electronic files to the Town. Said copies will be forwarded to the Town Engineer's office to confirm that the data on the electronic files are the same as the approved subdivision plans.
6. That Section 5.1 and 5.2 Standard Approval Conditions for All Subdivisions (Major & Minor) of the Design and Construction Standards be met.

---

**REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010**

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

**Conditions that are on-going standard conditions that must be adhered to:**

1. That the major subdivision comply with Town of Victor Design and Construction Standards for Land Development, including Section 5.
2. That erosion control measures must be in place before any site work has begun with regular inspections to follow according to the SWPPP plan.
3. Two-year maintenance bonds shall be provided by the Developer to the town for all improvements to be offered to the Town for dedication. Maintenance Bonds shall be written by surety licensed to do business in New York State and they shall be in the amount of ten percent (10%) of the final construction cost, as determined by the Engineer for the Town.
4. That approved subdivision maps, including conservation easements, lot consolidations and lot line adjustments shall be submitted in digital format, AutoCAD 2002, or latest version, effective January 1, 2004 (per Town Board resolution #193 of June 23, 2003).

AND, BE IT FURTHER RESOLVED, that the Planning Board Secretary distribute the appropriate standard conditions with the Planning Board's approval letter.

|               |     |
|---------------|-----|
| Dawn Grosso   | Aye |
| Dan Benulis   | Aye |
| Joe Logan     | Aye |
| Ernie Santoro | Aye |
| Bob Davis     | Aye |
| Heather Zollo | Aye |
| Al Gallina    | Aye |

Approved 7 Ayes, 0 Nays,

**NEW APPLICATION**

VICTOR ROD & GUN CLUB          6649 Gillis Road          Appl. No. 6-SP-10

Site plan to construct a 30' x 40' (1200 sf) metal pole barn for storage.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Joe Strazzeri – I'm a member of the Victor Rod & Gun Club. I've got the comments from the Engineer. The only thing that I can see is on #4 Building Height - the structure will be 19 ft in height. There was a question on the total height of the building. Grading – we are just matching the existing. It will be constructed on the existing stone parking lot. The slab elevation will probably be 6" to 8" above that. There is no earthwork necessary, nothing required. Foliage – we are not touching any of the trees to the west. We are actually not touching any of the trees or plantings on that west or north line. That would also provide a barrier so it will pretty much sit out of line of sight from any direction. Lighting – there will be no additional site lighting or lighting to the structure at all. Utility Connections – there will be no utilities, cold storage only. Right now there is a storage trailer on site that has been used for probably 15 to 20 years and it's either in need of major renovations or get rid of it and put this building up. We do need more storage, there are a lot of picnic tables, chairs. If you understand the use of the club, it's a clay target type club, it's a skeet and trap club primarily. Right now the inventory; we buy clay targets in quarter truck load quantities and that happens four times a year. With the building we can bring in a tractor trailer load and just store them all in one shot for an annual use. I think it will be better looking than the trailer that is there now. It will allow us to get everything that is on the site into the building so it cleans up the site totally. Basically it's nothing more than an oversized garage. That's what it's going to be used as. It's going to have two overhead doors and a side man door, that's it.

Mr. Logan – I agree it's an improvement. I have no problems with the application.

Mr. Benulis – This falls under the R2 zoning. Does this property include some form of special use permit?

Chairman Grosso – That was something that came up at the staff meeting. Kim was going to research that.

Ms. Kinsella – It's a pre-existing non conforming use.

Mr. Strazzeri – The club has been there for 76 years so it preceded any subdivision or.....

Mr. Benulis - .....so it's grandfathered I guess would be appropriate to say.

Ms. Kinsella – Yes

Chairman Grosso – I know that we also talked about a Zoning Board of Appeals variance on a sprinkler. Was that necessary?

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Ms. Kinsella – I believe he still needs to make that application.

Mr. Strazzeri – I still need to go there to get that resolved.

Chairman Grosso – Otherwise it meets all of the setbacks, it's pretty straight forward.

Mr. Strazzeri – The map I included is pretty clear. We are 340 ft off of the road and 50 ft from the nearest property line.

Chairman Grosso – I have no issues. With that you can anticipate that there will be a resolution to approve, I would assume since no one had any opposition, at our next meeting.

CONIFER VILLAGE AT EASTVIEW      7410 Forest Trail      Appl. No. 8-SP-10

Site plan application to remove the existing canopy at the main entrance and construct a new canopy with minor revisions to the sidewalks.

Chairman Grosso – This is to be distinguished from a separate application that came in a couple of meetings ago regarding a change to the Planned Development District and the additional units. So this is a separate application.

Mr. Tim Fournier, President of Conifer Realty – Just for clarification, tonight we are addressing you just for the façade changes. We are here for some façade changes and minor parking lot realignment which results in some footprint change as well as no additional impervious surfaces. I guess with that I might as well move right to the architect. I would be happy to provide any other information about the project if it's helpful for you. This is not the Planned Development District resolution and it's just the façade, I'd like to turn it over to Mr. Norbert Hausnier who is the principal of NH Architecture and the architect for this particular project.

Mr. Norbert Hausnier Principal of NH Architecture – Before you, you see the grade changes at the entrance (referring to power point slide). I have a rendering of this. What we are trying to do here as Conifer has purchased the property, we've noticed in our analysis that the current front covered porch or if you will the gable at the front, the line directly with the sidewalk, it makes it a little difficult when there is an 8" step to get seniors into the front door. The access is way down each side and then you have to go through some side entrance doors. It didn't make a lot of sense to us. So we are looking for a little bit fresher look on the outside as well. The rendering that you see is my solution and that is to put a porch across the entire center brick façade, mask some of the eaves that are on the top that is a conflicting material to the brick, give

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

it kind of a more homey feeling, less commercial. I think that we all agree that the green eaves are more of a commercial product than a residential product. In the renovation of the property, we are also taking those small double hung windows that are on the lower porches on either side. Those are office spaces now, they will be renovated into units. As you can see by the rendering down below, that there is now access from those spaces out to those porches. The rails go all the way across so people can't come up into those areas. Entrance will be very obvious, the way it pronounces itself from the entrance. We have a little roof from the secondary level that kind of fills that negative space that is up above. We are actually taking the brick off of the second floor line to hook into the façade on either side. You can also see that we are taking the yellow color that you see, it is more of a sunflower yellow color to give a little brightness to the façade. That lattice work that you see is pvc material so we want to paint it. It's going to be fabricated in a local shop. It's about, if you can imagine the eave as you can see it in the upper photograph, about 18" deep. That lattice work runs about 6" off of the eaves plain so it's floating there as a Victorian home would have been, cottage style back in the days.

We think that maybe we latched onto something that is a little bit more comfortable for a front entrance. We were allowed to do that just by getting a little creative with the site plan. You can see what we ended up doing was, we had a larger than normal traffic isle and it's off centered, it's kind of a strange application. We were able to flatten it out a little bit and bring that curved line forward. Now we can take the yellow area that you see and re-asphalt it, bringing it up, contouring it so that it has a nice plain at the front entrance like you might see if you were going to a high class hotel or something where you don't have those curb cuts. Those curb cuts that are cut down, I find are first of all unsightly but also dangerous. You would have to provide special abrasive techniques to them and things of that nature and the climate we have. So bringing that asphalt up, pulling it around and straightening it out gives us nice landscaped areas on both sides, it gives us the entrance that we really want. We are going to put some chairs out on either side of the entrance so that the folks can enjoy themselves. That main lobby now becomes, I don't know if you've ever been in there, but there is a pre-vestibule that's about the size of Rich Stadium as you come in the front door. We are realigning that a little bit and that's where the mailboxes are and there is a nice plant feature in the front entrance and it's more accommodating to the new function. I think that's about it. If I can answer any questions, I'd be happy to.

Mr. Davis – I just looked at the drawing. That doesn't appear to be an accurate representation of the building. Is that true?

Mr. Hausnier – It is

Mr. Davis – When you look at this one, it could just all be angles, but it looks like that peek is way above that roof. It looks like that peek is recessed down now and into the pitch of that roof

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

a little bit. It looks like the pitch is a lot different too. It looks like you are dropping that a lot more or you're changing the height of the pitch of the roof too.

Mr. Hausnier – I think it's the angle of the picture maybe.

Mr. Davis – Okay

Mr. Logan – I think it's going to be a nice upgrade to the façade of the building. You must like birds because that lattice work will be holding a lot of birds nest. That would be my only comment as you see bird nests in signs all the time and that might be a problem.

Mr. Hausnier – That's what power washers are for.

Chairman Grosso – My only comment and it doesn't necessarily go to this, I brought it up to the Town Board on your other application and I know that it's not that feasible, I talked to another board member. My husband is on the ambulance corp. and has been in your property a number of times and the elevator does not accommodate a gurney. I know another individual that has been in there who is also on the ambulance corp. and had indicated that it's a problem but also acknowledged the feasible ability of changing it is pretty impossible. It doesn't affect my decision on this, I think you are doing a nice job on the front and I just hope that sometime in the future if it ever becomes financially feasible that and I know there is not a shortage of ambulance stops over there, it probably would be helpful due to the nature of the business. Again, that's not relative to the façade, it looks great.

Mr. Fournier - Question for you on the Planned Development District resolution. Will that be heard at another meeting, the one that was referred about 2 weeks ago by the Town Board to the Planning Board?

Chairman Grosso – Yes, it will come back to the Planning Board correct Kim? It's not on our agenda for the next meeting.

Ms. Kinsella – The Town Board will be looking at it, I think on the 14<sup>th</sup> and then making their decision at the meeting after that. So you won't see this until our July meeting.

Chairman Grosso – Which will be the middle of July as we only have one July meeting.

Mr. Fournier – This will be back before you for your approval at your July meeting?

Chairman Grosso – Yes

---

**REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010**

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Fournier – The façade?

Ms. Kinsella – Not until the Town Board looks at it.

Chairman Grosso – So they will both be on in July, right?

Ms. Kinsella – The Planned Development District you looked at previously I believe.

Chairman Grosso – That's what you were asking about, right?

Mr. Fournier – Yes the Town Board approved the Resolution 150 two weeks ago last night with referring it to the County which the County will hear it tomorrow and also referring it to the Planning Board.

Ms. Kinsella – And the Planning Board did look at it. Ray was here at either our last meeting or the meeting prior to that. But Ray was here when you looked at that Planned Development District referral from the Town Board.

Chairman Grosso – So we don't act on it again.....

Ms. Kinsella .....No.

Chairman Grosso – Because it's a Planned Development District and it needs the Town Board. They just sought our opinion.

Mr. Fournier – So just for clarification on this, then we will be back to your July 13<sup>th</sup> meeting?

Ms. Kinsella – Yes

Mr. Fournier – And that will be for a decision on this right?

Chairman Grosso – Yes

Mr. Fournier – Thank you for the clarification.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

INDIA HOUSE RESTAURANT – ADDITION 7343 State Route 96 Appl. No. 7-SP-10

Site plan for the construction of a one story addition for storage and proposed 8' wide, 3 sided exterior deck w/screens and landscaping.

Chairman Grosso – I think you presented this informally. We are here on the formal application.

Mr. George Baker, of George Edward Baker A.1.A. Architects – This is a visual model that I made. (Mr. Baker had brought a power point presentation)

Mr. Davis – Is this the same model we looked at last time?

Mr. Baker – It is but it's been changed.

Chairman Grosso – Why don't you just tell us about the changes as we do have the application in our file.

Mr. Baker – What we are trying to do is to make something out of nothing. It was an old farm house. The India House has very little presence from the road as we all know as we live here. The farmhouse had never been attended to. Several things happened in the owner's mind having the place open for a decade. One was that he really needed a pub to go with the restaurant and he needed to have a more visual presence on Route 96. I don't think anybody that has driven down Route 96 passed would not agree with that.

What I tried to do for him was create a pub out of the old farmhouse that brought back some of the grandeur and some of the elegance of Colonial India. I came up with this concept of taking part of the second floor out so that it had a cathedral ceiling and introducing on the interior some timber type interior details. On the outside introducing these India screens. They are transparent, you can see through them but it adds a bit of mystery to what is on the other side of them. Between the screens on the deck are planters to soften everything and bring in some vegetation and also creating window boxes above newly installed windows above the existing windows. All of the windows would be new of course, it would create symmetry and elegance to it. Using some gas lights on the outside, they do it in NYC and Atlanta and France and Paris, I don't know why we can't do it in Victor. It would add an awful lot of glamour to the concept. Up on top is a cupola which is illuminated to allow light to shine through the glass windows and create a sophisticated look to the roofline instead of an unsophisticated farm look.

The whole idea is to put a kind of a frame around this building and give it some stability and class that it's been lacking.

Chairman Grosso – Have you received the letter from LaBella?

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Baker – Yes

Chairman Grosso – Because it seems you are addressing a lot about the architecture but we are not as concerned about the architecture. I think a lot of people acknowledge that it could use some improvement. But I think what would behoove you is to address the issues that were presented in the LaBella letter.

Mr. Baker – The main issue is the site plan that I inherited to start the project was from 1994 and it showed a 5.9 acre property. Then we were told by the Town that in 1986, it was subdivided into 2.5 acres and so forth. I didn't obviously know that until a week or so ago. I talked to Mr. Sud, the owner and he said that, maybe you could address this as to how it happened and why (referring to Mr. Sud).

Mr. Om Sud – In late 1994/1995, the property was two parcels. The one in the back of the acre it was wetland and the 2 point something is where the restaurant is. They are both treated as a single parcel and that's fine. I'm keeping the other parcel to make sure the wetland stays green. I imagined that was the reason for keeping both. I don't think anything has changed since 1994 when we got the approvals especially the green requirements. The two parcels are owned by me and for the same use, I don't use it for anything else.

Mr. Baker – Why were they subdivided in the first place?

Mr. Sud – That was the way we bought it.

Mr. Davis – Is there an issue with this subdivision?

Mr. Pettee – I believe he may be responding to the memo from Al Benedict. Point #1 he has indicated that the documentation that you have provided states that the parcel was 5.9 acres. The Assessors records show the 5.9 acres was subdivided in 1986, thus only 2.5 acres remain where the India House is located. Is that what you are saying? So the existing map now is 2.5 acres?

Mr. Sud – Right next to it is 3.9 acres which I own. It's wetland.

Mr. Pettee – Yes the rear portion of the site.

Chairman Grosso – They are owned by the same individual but they are separate parcels.

Mr. Sud – Right

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Pettee – I think what the Planning Board is really concern with at this point is acknowledging that point but looking at the letter from LaBella dated June 1, 2010, comments # 1 – 7. For example comment 1 & 2 really focus in on the front yard and the setback and recognizing the existing setback requirement looks to be 80 ft and the proposal would further encroach on that setback.

Mr. Sud – I think that is true it does not meet the setback requirement. What is the process to get the variance that is needed?

Mr. Baker – I think the building today is 38 ft from the property line and we are proposing an 8 ft deck to go around it so it would now be 30 ft from the property line.

Chairman Grosso – It's going the wrong direction.

Mr. Baker – It's going the wrong direction because it's supposed to be 80 ft. The point that I'm trying to make in what we are doing, unless the Town wants to widen the road or put in a feeder road or something like that, what we are trying to do is enhance the appearance of the whole place in a way that really works and not just do it with landscaping. I think this would do it, I think this is the right solution for it.

Chairman Grosso – Have you addressed this with the Zoning Board of Appeals? Have you applied for a variance?

Mr. Baker – No

Chairman Grosso – That is something you need to do at the Zoning Board. You may want to get to them before we can do a lot unless the Board has some concerns. Granted you do have a pre-existing nonconforming setback characteristic as noted by LaBella. But you are looking to go the other direction and that would be something that you would have to go to the Zoning Board of Appeals for. That's one item, I don't know if the rest of the Board has any feelings on that.

Mr. Davis – My inclination would be, I know that you have a pre-existing nonconforming issue with the building but I think you've got to find another alternative other than building the structure closer and closer to the road. I don't know if it's in anybody's best interest over time. I don't know what the State allowance is there or what they could do there at some point. It just seems to me that there are other areas around that building that you could create an outdoor seating. But again, that's for the Zoning Board of Appeals whether or not they would grant that variance but I wouldn't be inclined to think it's a good move.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Chairman Grosso – I tend to agree with Bob on that just because it's setting precedence as well. You know having a pre-existing condition and then just granting a further issue is just something we are setting for future applicants as well.

Mr. Baker - I might just add, when I thought this idea up, I said that we were only putting a deck out there. It's not like we are putting a building out there. A deck is very easy to take down and it doesn't change the operation of the place.

Chairman Grosso – It changes the variance though. Whether it's a deck or a building, you're still building in the wrong direction. And, as Bob noted, there are other areas, it's not like that's the only possible place for a deck. I know at our last meeting you talked about being able to go around the side and the back and.....

Mr. Baker – .....It wasn't so much for the deck as it was for the aesthetics, trying to make the place look classy and this was a way to do that.

Chairman Grosso – I don't know if there are other comments relating to the setback issues from other Board members.

Mr. Santoro – Not to that but is that going to be the only means of access? Are these 3 steps that we see leading up to an entryway?

Mr. Sud – No the main entrance is still the restaurant entrance.

Mr. Baker – The main entrance to the pub would be through the restaurant.

Mr. Santoro – And there is handicap access there?

Mr. Baker – From the outside, yes.

Chairman Grosso – Well from the comments that you've received so far on the setback item, if you were looking for this Board to say okay, you're not getting very positive feedback at this point.

Mr. Sud – I understand. We just want to know what the other issues are.

Mr. Pettee - I'm going to skip over comment #3 and go to #4. There was a lot of information provided on the proposed lighting techniques, that was good information. But I think what we need to have you clarify is how those proposed lighting techniques meet particular standards that

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

are found within the Town Code now and particularly in Section 131-7 and 131-11 Paragraphs E, H and P. I know that you mentioned illumination of signs and there are standards for the outdoor hospitality and eating areas and architectural and other lighting. We just want to have you provide some feedback on how your proposed lighting meets those particular standards.

Mr. Davis – Do you have this letter?

Mr. Sud – I got it yesterday.

Mr. Pettee – You just received it yesterday?

Mr. Sud – I did not get a copy directly as I was on vacation last week. Overall it makes sense, I don't see that as a bad thing

Mr. Pettee – Signage, I didn't recognize or see that any new signage was proposed as part of the project so I just highlighted.....

Mr. Santoro – .....There is new signage.

Mr. Sud – There is new signage proposed on the wall.

Mr. Baker – Presently it's on a big post with a big spot light on it. We are proposing to take that down and put signage with raised letters on the outside and illuminate them with garden lighting.

Mr. Pettee – That's good to know. I think what we want to see is how that lighting on the signage, whether or not that is consistent with what the Town Code would require for lighting on signs.

Mr. Baker – You want a luminous scope?

Mr. Pettee – Lumens and the direction of the lighting whether it's going to be up-lighting or down-lighting.

Mr. Davis – The size of the sign for the square footage available.

Mr. Pettee – That's something else we'll have to take a look at on our end, the size of the sign to make sure it complies with the sign standards.

Chairman Grosso – So you're saying you need more detail on that sign?

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Pettee – Yes

Chairman Grosso - So you need to review that to address that.

Mr. Pettee – Yes

Mr. Baker – The whole purpose of doing the lighting on the signs the way we want to do it is to make it more subtle.

Mr. Pettee – I think that's good and a lot of the detail that you provided looked great. It is just we need to make sure it's in conformance.

Mr. Baker – I'm trying to figure out how to do this.

Mr. Logan – Wes, as far as the signage goes, do they need to apply for a second sign? Because it looks like they are showing two signs on the building.

Mr. Baker – One sign we are proposing on the north wall which would signify the pub and then a sign on the existing kitchen wall that faces Route 96 which would be the official sign for the India House Restaurant.

Mr. Logan – For the facility you need to request to have a second sign on because you are showing two signs.

Mr. Baker – We can do that too I guess.

Mr. Logan – I understand the concept. It's not a bad one but you need a request for that. As long as we are talking signage and architecture in general, I think what we alluded to is there are other alternatives to putting a deck on the front of the building. If there was no other alternative to put a deck anywhere, we could understand that it could be a hardship. But I think you can put an expanded deck off the back, there's probably a way to do it. Plus you are hiding potentially a beautiful façade when you get done with it, with the panels in the front.

Mr. Baker – The idea is not to hide it, the idea is to make it....

Mr. Logan - ....I understand that but if you want to draw attention to the building, you'll get the attention you want even if you don't have that deck on there. You've got some decorative items on there. I'm speaking from an Architectural Review Committee perspective and that's my personal opinion. You have an opportunity to put a deck off of the back, take the noisy highway

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

out of the picture when it comes to enjoying a pub by putting people in the back of the building where it's more shielded from the noise of Route 96. The last place I'd want to be is right next to a highway trying to enjoy a drink in the evening. So you do have other options for that restaurant that you could certainly satisfy and not invade further on the setback requirement.

Mr. Sud – I understand

Mr. Logan – That's the perspective that I would look at with that application for a request for a variance for the setback.

Mr. Sud – I guess the two critical barriers that I saw in the memo were about the setback and the second one I'd like to address is the parking. The parking is okay because there are a certain number of parking spaces, we aren't going to add more. We can have a trade off between the amount of seating to have in the dinning room versus parking. It's a redistribution of parking spaces.

Mr. Davis – There is a set calculation to do that based on the occupancy of the building equates to a certain amount of parking spaces. I don't know how you get around that other than coming in with a proposal that we could talk about. I think it requires 178 or something like that

Mr. Baker – I think it's 116

Mr. Sud – The question that I had was if you reduce the amount of seating in the dining room and added equal number in the pub, does that meet the requirement?

Mr. Davis – This is a little off topic but my sense is you really don't want to complete this application tonight and start the clock. If you do, then we are going to start running down a clock that you have to comply with and we have to comply with. I think you want to take these questions and get some help with what technically can be allowed through the Town and I don't know if through Kim and the Planning Dept if they can help out with this a little bit or get some engineering help on this as well so you can respond minimally to the letter from Al Benedict and then from LaBella, then say that you are ready to do this. Some of these could have implications to your cost and to the structure of your business. I'm not sure you want to do that. With the clock started, now all of a sudden you will start spending money. Until you are ready to do that, I think you want to make sure you are complete and ready to answer the technical questions rather than the architectural design questions. That's just my opinion, I don't know how anyone else feels on this.

Mr. Sud – I understand

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Wilson – Just to follow up on that, I think from a legal point of view, if you don't understand what Bob just said, the statute sets some time periods in motion once an application is received.

Mr. Sud – Oh I see.....

Mr. Wilson – Once certain actions by the Board within a period of time, the holding of a public hearing within a certain period time and then a decision. It would be my legal judgment looking at the comments of the engineers is that this application is really not complete. It would be inadequate to support a favorable decision. If you proceed on this application, I can predict to a near certainty that you will get a denial out of this Board. My suggestion would be in both technical, legal and practical is that the applicant may very well wish to withdraw the current application given the fact that it has now been identified so lacking in some of the detail required by our local code, seek some engineering input along with your architectural input and come back with a more complete application so when we start those time periods, we're not being put into a corner where we have to deny it because of insufficient documentation. My suggestion would be and it's really up to you, but you are on a road right now to walk right off of a cliff, you may wish to entirely withdraw this application. You may want to seek some technical engineering help and help from the Planning Dept that will allow you to respond to the deficiencies that have been identified by the Town Engineer because the plans that need to be submitted are fairly technical in nature. The architectural items, the concepts you've had some feedback on, you know what's attractive to the board and what's not from that point of view. To proceed on this application I think would be almost certain failed to you. I would strongly encourage you to withdraw and be starting the time periods with a new application when you are a little bit more prepared to advance down the process.

Mr. Baker – We definitely need an updated site plan.

Chairman Grosso – That's just the very beginning.

Mr. Davis – What I would take from this, if we didn't want you to be successful, we wouldn't be trying to guide you.

Mr. Sud – I understand, I appreciate our feedback.

Chairman Grosso – So at this point would you like to withdraw your application?

Mr. Sud – Yes we would like to withdraw the application.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Chairman Grosso – And you have the benefit of some comments already so when you start the new application, you can consult an engineer on the topics. You would have a head start on the application.

Mr. Sud – I appreciate it

### **DISCUSSION**

*Mr. Davis recused himself from this discussion. Most of this discussion will be summarized and is referring to a proposed condition that was written by Mark Tayrien and John Wilson.*

#### VICTOR HOLCOMB ROAD/MORELL PROPERTY State Route 444

Discussion on recommendation to Town Board on rezoning application.

Mr. Mark Tayrien – I think the last conversation we had was about the fact that there were some conditions being suggested by the applicant and some additional conditions that came up in our conversation. I think John (Wilson) spoke at the last meeting about the opportunity to implement those from a legal perspective. So with John's help and some input from Don Young (and I've run 99% of this by Peter Vars to make sure it's consistent with what the applicant was anticipating) we took the liberty of trying to draw up some potential conditions for your consideration. I think if I recall correctly, the process we were anticipating last time we talked about this was for the Planning Board to accompany their recommendation back to the Town Board regarding the potential rezoning with suggested conditions like this with the request that the Town Board please consider implementing those conditions as part of the rezoning action and perhaps even an admonition that the Town Planning Board anticipated implementing similar identical conditions when the application came back here for subdivision and/or site plan approval. I've done the best job I could to pull those together on paper for you to have a look at and that's what's before you now. I can go through them one by one or if you have questions, how ever you want to proceed, that's where we are.

Mr. Benulis – We had a discussion that was as a result of a prep meeting. The Planning Board had a meeting about 3 weeks ago about this situation because it was going to come up on the agenda. It was my understanding when we had that discussion because there are lots of different ways we can go at this but one way is, we could go forward with the MD Multiple Dwelling rezone and then attach multiple restrictions on top of that. That's one alternative that works. But I thought there was another alternative that might be as easy or easier rather than get into a MD

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

with multiple covenants. It might not be a bad idea in looking at rewriting the zoning for this area which in essence is what we are doing for MD any how. I don't see it any differently viewed as spot zoning whether you go MD with all kinds of restrictions or we go ahead and just rezone with the appropriate density overlay. What happened to that notion because I'm not seeing that? I wasn't here for this discussion because I left due to a recusing issue. So why aren't we thinking about pursuing a rezone if it in fact is quite easy to do?

Mr. Tayrien – I don't know if anything in this particular option is going to be easy. I'll share my recall about that conversation. There was a conversation that took place at one point that I was part of where we observed, conceptually at least, part of what seems to be going on here by relying on these many conditions. We're almost defining a residential zoning district that doesn't exist in the code now. In the code you have the R2 districts that have densities on the order of 1 or 2 units per acre and at the other end of the spectrum you have the MD district that has densities of 10 units per acre. In a sense you could make the argument that what we are trying to do here with all of these conditions is trying to bridge that gap and create a district with an intermediate density. I don't think it's my place to push this forward. I did have that conversation with Peter Vars and I don't think the applicant is going to suggest that because I think they are concerned that adding to this application, the requirement to define a new zone. I think is alarming to them. I think they are concerned that that may take longer or bring up issues that they are not prepared to deal with. I think you could make the argument that in some instances it might be a cleaner way to go and it might bear some long term benefits. But it would take this application to a whole other level and perhaps a level of complexity that we needn't necessarily go. To my knowledge it hasn't gone beyond the conceptional stage.

Mr. Wilson – Isn't the other point we had talked about is the applicant not being able to plug in the detail and the expense and the engineering that would be necessary to formulate the specific implementation plan that would allow you to rezone around it. This conception allows more flexibility for the design and site planning to follow rather than to precede the efforts to act legislatively. The legislation sweeps in a broader fashion than the implementation under the legislation of zoning happens more functionally here. I think this Board has complained in the past that when it's tried to work hand in glove with the Town Board back and forth site plan conditions that it's gotten in more trouble than its gotten things done. So I think that was a secondary reason that you and I at least were disinclined and the applicant as well to go down that route. It's just a particle problem I guess.

Mr. Tayrien – I think if we actually went down the road of defining a new district and then rezone this parcel, at least part of it to be within one of those districts, it could go relatively straight forward but it also could bring up all kinds of issues that we're not considering now. So, for example, what does the creation of that district mean for other potential areas in the town that

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

might come in next week requesting that zoning. If there is an advantage to the current approach, I think it keeps us focused on a site specific fashion on this particular parcel and it doesn't really have any precedents for other parcels through out the town. If we go to the step of creating a new district, it really requires a broader conversation and more thoughtful consideration of what we're doing. Perhaps this is something we could do after this is done, maybe this is a good indicator that there is a missing district in the zoning code and we could create that afterwards. I'm concerned that we might not be able to manage the process as effectively and we might take what is already a complex application and make it just that much more complicated and time consuming.

Mr. Gallina – The other thing this approach does, it fairly mimics the boundary conditions that the neighbors around the area said they liked what they see here. If we get more generic, we open ourselves up to more interpretation of what could come. This boxes in what people say they like.

Mr. Benulis – It triggers the idea that we might be missing a zone not just on this site but possibly on other areas for some higher density.

Mr. Gallina – We could deal with that issue independent of this application.

Mr. Benulis – Yes we could. We could pursue the approach that we are using. I'm not opposed to it, it just seems a little more logical to me to do that because it's already zoned as R2 leave it as an R2 and make some modifications. I think there would be less modifications than we are going to make by creating an MD with additional covenants. I think Mark mentioned one of the problems with R2 would be the minimum lot size would have to be 25,000 sf. So like the MD issue with multiple covenants, the R2 would have to say, in this particular case, the density of 25,000 sf would not apply. I think one of the other issues I see with this is the open space issue with the MD. With the MD, I believe it says 25% is all that is required. Yet I think the applicant is willing to work with the R1/R2 at 50%. If that's the case, I'm not sure we've mentioned that as a covenant. I think we need to be sure that gets in there.

Mr. Tayrien – There was discussion of 50% open space and I did miss that.

Chairman Grosso – I tend to agree with you Dan in the matter in which to do it. I know that I was part of that conversation and I think Mark you had indicated that a number of other towns had that transitional district. We were kind of the odd balls out, not having a district like that. I'm not 100% opposed to this, I'm just a little concerned that the applicant is driving the decision. I think it's our decision as how we want to address it. If it would be easier and the Board is inclined to do it, to have that additional district. The fact that the applicant is

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

uncomfortable with that, gives me an uneasy feeling that I had from the start which was if we put these conditions on it and then a few years later someone comes in and wants certain conditions removed and granted the Board can do what they want with those conditions.

Mr. Gallina – Dawn whatever restriction we put on, an applicant can ask to have revised. So there is no certainty to anything going forward no matter what we define.

Chairman Grosso – I'm just thinking from a perspective of using an MD district that allows 10 homes per acre and they were looking for 96 versus 260, there's that gap between the two. If we had a different district or we did what Joe was describing by limiting the MD district, that gap would be reduced. So if the district would only allow 96, then I wouldn't have that fear.

Mr. Gallina – So back to the applicant's concern. Now we are in a discussion that could take months or years to define. I'm anxious to move forward with the project. This could be an open ended process that we may never get a new district defined. Then where are we?

Mr. Tayrien – I don't think approval following the track we are on now would necessarily preclude creation of a new district. I can imagine that we could go down the track we are on now and then at some point step back and say that the last application revealed to us a potential missing district. Let's define that and implement it into the code as another floating zone or a planned zoning district which I think the code actually calls it. I think conceivably, if it still fits, you could always come back and rezone that parcel. I don't think you necessarily have to have the applicant's request to rezone the parcel. In fact if it's a good fit and makes more sense at that point in time, there's nothing to preclude rezoning that parcel a second time as long as it's consistent with the conditions that have been imposed the first time around.

Mr. Benulis - On your second bullet that talks about a single family detached house shall be a maximum of 24 units. That will be retained as R2, is that what we are talking about? (Mr. Tayrien said yes). The density overlay is still going to apply there then, not more than 1 per acre so the minimum size that parcel can be is 24, correct?

Mr. Tayrien – That is correct if the overlay continues to apply. This rezoning action to accomplish the density they are looking for is going to have to vary the overlay at least over a portion of the site.

Mr. Benulis – The way I read that is we are going to leave that area alone and do nothing, leave it as R2 and leave as overlay C. Then the townhouse area would have to accommodate no more than 10 per acre. So as long as there is 9.6 acres, we are ok. In any event, the density overlay would not change on the 24 single family homes as I read this.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Tayrien – That is my understanding that there would be no need to change the overlay there but there would be a need to change the overlay on the townhouse portion.

Mr. Benulis – I do remember the applicant wanting the flexibility to have the overlay district go away for the entire parcel and place the units as they saw fit. Is that what they were thinking about?

Mr. Tayrien – You are bringing up a good point. Later in this document it talks about how the clustering provisions allow you to vary the distribution of the units about the boundary of two adjoining districts. So you have some flexibility there. I'm not sure if it would apply to the overlay as well. If it didn't, it could be a problem. I'll have to look into that.

Mr. Benulis – Otherwise we run into a problem.

Mr. Tayrien – The overlay will probably continue the way it is over the R2 portion. It would only be modified over the townhome portion and possibly over the SC (Senior Citizen) portion.

Mr. Benulis – Something also came up in our prep meeting from the Conservation Board input and this is the first time I heard this. This is a very important issue that I don't think any of us had heard because at this point I don't think any of us have done a site walk. The issue which kind of alarmed me was, I was with the impression based on the input coming from the applicant that they were in essence clustering this anyway and thereby they would avoid any disturbance to any sensitive areas (steep slopes, wetlands, etc). However the Conservation Board's input states that is not the case. The conceptional plan that is laid out today in fact does impact steep slopes and I don't know if that is correct or not, but that's the input we got. If that is true, we should not be talking about rezoning at all until that is confirmed. If they want to proceed with the way they conceptionally laid this out without a lot of change and if it does infringe on the steep slopes, then I think we've got a problem before we start.

Mr. Gallina – Wouldn't that come out in the SEQR process?

Mr. Benulis – It's too late then.

Mr. Logan – When rezoning this, they can distribute the buildings around the site to the density they are suggesting and then it gets rezoned, they will still have a maximum density and they will have to scale back from there. It's a matter of where things get placed during the application process is what we would have control over.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Chairman Grosso – The Conservation Board noted where the 20 unit nursing facility was, was right on top of a steep sloped, treed area. I think this Board looked at that spot and not having been there and were alright with the nursing home part of it. That comes to me as a big issue and maybe the density isn't satisfactory.

Mr. Logan – It's definitely located someplace where you would have to carve the top of the hill and fill in the side of the hill in order to put anything on that slope. They don't have both the contours and the layouts on the same drawings on any of the exhibits they've given us. There is additional information they haven't addressed in detail.

Mr. Tayrien – It's a funny process, we are really only talking about the rezoning now. The site plan is not before the Board. The site plan that we've looked at is only evidence that it's reasonable to develop the parcels in something like the fashion they are proposing. The code requires some sort of a site plan. The fact that these issues are coming up with the Conservation Board is somewhat challenging to think about. How does this feed into the process? One way it might feed into the process is if something like this went back to the Town Board with a caveat that in addition to this, the Conservation Board has also expressed concerns about the conceptional layout or placement of units on the site. This configuration somewhat locks some of that in and basically these conditions assume there is no environmental sensitivity problem in the proposed configuration. Then give the Town Board an opportunity to work through that in the SEQR process. You have to start somewhere with this issue. I could see the Town Board working through that and the SEQR process where it then becomes an environmental concern. As long as whatever goes back to them is clear and consistent. If there weren't these environmental sensitivities you could probably run with the way the conditions are. But if there are these sensitivities at the northern end of the site and you're going to end up pushing many units to the south, I think these conditions have to be modified at some point. Maybe it's up to the Town Board to modify those after they gone through the SEQR process and get into more detail about what these environmental sensitivities are.

Mr. Logan – Unfortunately with our process, all of these sensitivities are suppose to be identified before you start the review.

Chairman Grosso – I don't think it's realistic that they have put that before us and we call that evidence. It's not evidence based on what I've heard from the Conservation Board. I have that bad feeling again about them saying we were all happy with the density at our last meeting, let's run with it. Now I'm finding out this is on steep slopes and I'm not 100% confident that I'm okay with that anymore.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Benulis – I had a conversation with the Conservation Board and asked if they had had a conversation with the Town Board with their concerns that the conceptional plan as we know it today does infringe on the steep slopes and maybe other areas such as the woodlands? I think the answer is no.

Ms. Kinsella – They are going to go to the Town Board at the June 14<sup>th</sup> meeting to make the presentation they made at our last meeting.

Mr. Logan – What we are talking about is the process for the Planned Development District because you have to do all of this engineering to get to what the zoning is. These are all the reasons why we do Planned Development Districts because you have to get through all of this stuff and then zone it properly for the final solution.

Mr. Tayrien – Maybe the path is that the Planning Board spends more time with the environmental conditions there, specifically the vegetation and the slopes and the other issues the Conservation Board has identified and then comes to a conclusion as a Board whether you believe those northern portions are developable or not before you do send something back to the Town Board. It might make more sense to work on something here before you send it in.

Mr. Benulis – One of the other thoughts might be that before we recommend anything and because this has come up as a potential issue that we really weren't aware of, we were thinking the way that was shown on the conceptional plan that they had pulled it back from any steep slopes or a very limited disturbance to the wooded area. I guess we need a site walk before we do anything.

Mr. Tayrien – I'd suggest a site walk and some dialog with the Conservation Board where they have an opportunity to be more specific on what their concerns were. This might happen after the site walk so you could have some meaning conversations and come to the conclusion whether or not we share their concerns or not.

Ms. Zollo – We haven't asked them for the resource inventory yet because we are not at that point in the process but it really is something we need to know.

Mr. Tayrien – I agree with you given what has been drawn and that the fact that these conditions start to cast the layout in stone. When you start talking about an R2 district in the southern portion and an MD district in the northern portion and you have that boundary, even given the flexibility that you have with clustering, you've now begun to start locking in the fact that the northern portions are going to be developed with some high density residential units.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Benulis – In my mind we basically have three options; precede this way with the MD and a lot of covenants. Let's assume the environmental issue will be alright. The next option is other than the SC which will need to get rezoned, let's leave the rest of it R2 and have basically 2 variances, density overlay changes and the size of the lot changes. There may be more, but those are the 2 that I'm thinking about. Or you conclude that it makes sense that we rewrite the code to provide something in our code that doesn't exist today that will allow a project like this.

Mr. Wilson – Are we talking about variances in a technical sense?

Mr. Benulis – It's zoned R2 today with a density of 1 home per acre with a minimum lot size of 25,000 sf with public water and sewer. If we allow deviations in that, we allow 2 things, the size of the lot and the density overlay.

Mr. Wilson – Would that be for this Board or the Zoning Board of Appeals?

Mr. Benulis – It wouldn't be for us.

Mr. Wilson – I know the applicant would tell you and I know their lawyer would, that it would be almost impossible to demonstrate the legal requirements, the hardship requirement for a variance before the Zoning Board of Appeals. If it was ever challenged, it couldn't be done. There are requirements that limit the powers of the Zoning Board of Appeals to grant a variance. One of which typically involves an economic hardship that the property can't otherwise be developed without the variance that is being requested.

Mr. Benulis – Are you saying the Town Board could approve the rezone?

Chairman Grosso – No he is saying that the applicant would not like the option that you gave about getting a variance because there is no way they could overcome the hurdle of the requirement of getting that variance. You've listed the 3 options and the applicant is going to say about the second option that they don't have the economic hardship so there is no way the board will grant the variance.

Mr. Wilson – My counterpart sitting with the Zoning Board of Appeals would say that you can't legally grant these variances.

Mr. Benulis – Then you go back to the Town Board and say you want to change those two things in the code for situations like this where we think it makes sense for the community.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Chairman Grosso – I personally would throw out that second option saying that we are going to vary the R2 district because you are just setting precedent for everybody that comes down the road.

Mr. Gallia – That's why I'd rather stick with the MD and have restrictions so we aren't opening the door.

Mr. Benulis – You don't think that varying the MD is opening up the door too?

Mr. Gallina – No because you are putting more restrictions on it.

Mr. Benulis – What if they sell this off to someone else and it says you can't let me come back the same way it was when I left.

Mr. Wilson – From a legal point of view, it's my assessment that restrictive covenants in recordable form with appropriate language that is recorded are pre-requirements to any rezoning taking effect will run with the land are enforceable and can be changed only with great difficulty and then only with the consent of both parties. We did some research on that and shared it with the engineers that that is not an uncommon way of proceeding as the applicant themselves pointed out. I think some of these points are very good. The steep slopes in the senior housing district. This applicant has demonstrated they are willing to do a great deal to satisfy this Board and the Town Board. We are in a funny position because we don't have an application before us right now. We've been asked to give a recommendation to advise the Town Board with regard to the application that they have. It's typically not for the Planning Board to determine what zoning will or will not be existing in the town.

Mr. Benulis – Then my recommendation would be that before we are going to make any recommendation on rezoning, a situation has arisen in regards to some concerns to the steep slopes and so forth.

Mr. Wilson – By not having an application before us, we might not have all of the "tools" that we might have with a site plan. But the points that have been raised I think are good ones. There is no reason that these and other ones that we can come up with can't be appropriately included in any recommendations that we make. For example on that first bullet, we talk about the senior housing, we can add language if this Board wishes to at the end of that bullet that says, "provided the steep slope concerns expressed by the Conservation Board are addressed to the satisfaction of the Town Board" and raise the red flag. Our recommendation should be raising the red flags that are within our expertise and experience and certainly you caught a good one with the open space. It's been suggested that the applicant should be put at least preliminarily to

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

the resource analysis to put the whole project in context. It's hard because we don't have a specific site plan that allows that kind of detail but at least identify some of the things that we think the Town Board should be looking at. The point you made about taking a different zoning approach are legitimate. I just don't know if it is up to the Planning Board to make those decisions.

Mr. Benulis – I'm just making a recommendation.

Mr. Logan – I can guarantee they have the line work already set. All they have to do is lay it over the contour plan and you'll be able to see clearly what it is.

Chairman Grosso – For me what's important is that they left here and we indicated we could work with the unit numbers. I'm not 100% sure I still feel that way because what I don't want to see is the units along the neighbor's property line coming back for setback changes. The wording that I see here and I know that the wording needs to be modified. I don't like the word "shall" being used because if they can't put the SC on that slope, they are going to say "there shall be" as stated in the conditions and we have nothing we can do about it. I may want it to state "if the site will withstand it" because the second we put in there "shall be developed the maximum of" we're done with density and they will never back off. I know that is word-smithing at this point when we've got a couple of other issues to add. From the Board's perspective what is the methodology that we go about this and Dan you threw three ideas out. From the Board's perspective how many people are in favor of the methodology that we do the MD district and we pare it down? (The majority of the Board was in favor).

Mr. Benulis – I can live with it too.

Chairman Grosso – I just wanted to get that and it's the direction that you are already going in. So we are there with the majority of the Board. The question that Joe brought up with the reducing the MD district to a smaller percentage.

Mr. Logan – It was something like 8 acres for the MD district.

Chairman Grosso – We were talking that addressed the issue about 10 homes and my concern. I guess the question to the Board would be how many like the idea of reducing the MD district?

Mr. Wilson - Before you take that vote, Mark I think you ought to share our mutual concerns about that approach, shrinking the MD down to the smallest technical number.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Tayrien – The conversation that I remember is that as a Planner, varying the units about the boundary with some latitude giving the clustering provisions doesn't bother me a great deal. But at some point, if you shrink that MD district down to the extreme where it's a small acreage and it's only being used to define the density or the number of units and it's not really defining where those units are going, those units could be a long ways outside that district. At that point, it begins to look contrived to me. It starts looking odder and odder the more you push it, and it concerns me.

Mr. Wilson – That was kind of our shared concern. This is not a legal definition but it's "weird" and if it's "weird" then you are worried that you are pushing your zoning powers to the breaking point. If it's "weird" to us as technical legal advisors and engineers, it's going to look even "weirder" to the courts when he sees the little MD district up there and all of the things sprinkling down towards the south. We haven't done the deep research on that but both of our respected disciplines felt uncomfortable with that idea.

Mr. Tayrien – It's very convenient mathematically but it seems to raise more issues than it resolves.

Mr. Benulis – If it's the applicant's intent to allow the 24 unit area, single family homes to be retained as R2 and density overlay of C, then we need to include that. If it's not the intent where we kind of get back to a blended thing, you could in fact have more than that across a certain portion of that area that is defined as R2. Then it gets real muddy for me. What we would want to say on the clustered townhouses, to require them to apply for a clustered subdivision. That way we get them away from the steep slopes and condensed into one small area.

Chairman Grosso – I guess the "weird" thing is not legal enough for me! But who is going to fight it? If we are working with the applicant, who's going to fight it? By leaving it the way it is, I just really have a bad feeling that they are going to come back and they are not going to be able to develop on certain areas and we are going to give them a density of 120 units and it's not going to be developable and we are going to say bring it down to 110 units. They are going to say that the MD district allows A, B or C. To me "weird" and not standing up in court requires somebody to sue us and if we are working together it doesn't seem like that is likely to happen. I do get the point that 8 acres is such a small MD district, but what about a compromise of instead of 26 acres or 8 acres, then 15 acres. Would that make it less "weird" for a court?

Mr. Tayrien – To me the "weirdness" is how far removed those townhouse units are from the district that is justifying their presence. I don't know what the threshold is, if it's a matter of 50 or 100 ft removed from the boundary, that's one thing. If they are on the complete other side of the site, that's where I start to worry.

---

## REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Logan – Where does the Village zoning play in all of this? There is a piece that is in the Village correct? What is the zoning of that?

Mr. Tayrien – I don't remember but I don't think they are developing in that area. I don't think that acreage has even been taken into account any of the density computations. I think basically we are pretending that piece is not involved.

Mr. Logan – So they are only using the land within the Town to work all of these numbers in.

Mr. Tayrien – Yes that's my understanding.

Chairman Grosso – I think we should set up a site walk and continue on with this process. I would like to get feedback from our consultants, a modified document and put before us the applicant. I get a little concerned when the applicant is commenting on the document before we see it.

Mr. Tayrien – I should clarify. I sent the applicant an email with a bullet list of conditions of what I intended to include on our list just to make sure I didn't leave any out. They didn't actually have an opportunity to review this in detail and I agree with you, there is no longer any need for that. The dialog can now be just between the consultants and the Board.

Mr. Wilson – I presume you would have the engineers talk about the overlays. We don't have to show the documents, but we shouldn't loose touch with what they are doing too. It's easier to include it if we know that it's not inconsistent with their general plan.

Mr. Gallina – If we clean this up and everyone is comfortable with it, is it the intent that this becomes the formal recommendation to the Town Board?

Chairman Grosso – That is the ultimate goal. I think a site walk is required before the final version.

Mr. Tayrien – The brief conversation that I had with the Conservation Board left me with the impression that their concerns are pretty far reaching. Taken into their logical extreme, they could preclude development along a significant portion of the northern area of that site. If that's where the Planning Board ends up, I think there will be more than a few minor edits to this.

Mr. Gallina – This is really focused on a density recommendation for the rezoning then you have to go through the whole process, the whole SEQR and they really need to detail it.

---

**REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 8, 2010**

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

---

Mr. Tayrien – If there is a significant portion of the site that we preclude as not developable that can impact the appropriate density.

*A site walk was set up for the following week.*

On motion of Heather Zollo, seconded by Al Gallina

RESOLVED that the regular session of the Planning Board meeting was adjourned at 9:15 pm

Adopted 6 Ayes, 0 Nays

Cathy Templar, Secretary