

**MINUTES OF THE REGULAR MEETING**  
**JUNE 14, 2004**

The Regular Meeting was called to order by Chairman Joseph Yagey at 4:30 P.M. at which time the Pledge of Allegiance was recited. Board Members present were Gerald Green, Hans Arnold, Bob Imobersteg, Jerome Donovan and Bob Wood. Board Member absent: Ronald Morelle. Also in attendance were Town Supervisor Ralph Humphreys; Town Planner Kurt L. Schwenzfeier, AICP; Codes Enforcement Officer Jerry Back; Senior Engineer John Meagher; Police Chief Raymond Philo; and Secretary Dory Shaw.

Minutes of April 15, 2004 meeting were distributed and motion was made by Board Member Hans Arnold to approve these minutes as written; seconded by Board Member Bob Wood. All in favor.

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**Charles T. Sitrin Health Care Center, Higby Road**, New Hartford. Preliminary/Final Site Plan Review of the proposed Cedarbrook Senior Living project on Higby Road. Tax Map #340.000-2-21; Zoning: Planned Development Institutional. Mr. Richard Wilson, Chief Executive Officer, was present for this application.

This is an 80-unit senior living community on 60 acres of their 232 acre property north of Higby Road. The project will consist of a 52,000 square foot congregate building; a 22,400 square foot type "A" duplex buildings; a 22,200 square foot type "B" duplex buildings; and a 22,000 square foot cottage buildings, which will have 34 one-bedroom units and 46 two-bedroom units. This development will have private roadways, sidewalks, lighting, sanitary and storm sewers, water, cable, gas/electric, telephone and concrete curbing.

Town Planner Kurt Schwenzfeier stated that NYSDEC had some issues that needed to be resolved and he contacted them by telephone to address these issues. As of today, the issues were resolved. The only concern is that we do not have their comment in writing yet. The issues were with the retaining basin and verification of the calculations of that basin. The calculations have been done by GYMO Engineering and NYSDEC is satisfied with it. He also explained that there is an issue of the sanitary sewer built within the Town right-of-way. The Town is requesting the Planning Board have the applicant submit a Performance Bond not to exceed \$30,000. This Performance Bond has to be brought to the Town Board for approval and it should also be made part of any approval

by the Planning Board. The issues with the Fire Department and extra hydrants has been resolved; the Water Board has agreed to put the hydrants attached to public water; the Police didn't have any difficulty with serving the additional properties; and a new water tank will be installed by the Water Board and not contingent on this project. The Water Board has guaranteed the water/pressure for these units.

Discussion ensued regarding what has transpired with the Water Board and the tank, and the outcome is that this project can go forward with a guarantee of water and pressure. Reference was made to the requirements mentioned in the Town Planner's comments concerning the Valley View Pump Station. Town Planner Schwenzfeier stated that there will be an upgrade to the pump station. Chairman Yagey stated that Staff and the developer have worked diligently with regard to traffic, intersection visibility, the pump station, and all issues have been resolved. The only two (2) items are the Performance Bond and the letter from NYSDEC.

Board Member Donovan has concerns regarding the intersection of Mohawk Street & Higby Road regarding site distances, speed limit, deep ditches and the shoulders aren't very wide. Town Planner Schwenzfeier stated that alternatives have been presented and once the Sitrin Home clears the brush, it will be determined if grading is needed (Oneida County DPW will make a determination at that time). He said this is covered under the Highway Work Permit and if Sitrin doesn't do it to satisfaction, no County Highway Access Work Permit would be issued. He also said that this application had been sent to NYSDOT and Oneida County DPW with no issues stated (Higby Road and Mohawk Street are County roads). Chairman Yagey said that when we get to Phase II, we can seek other avenues of improvements, but this review is for Phase I and the County says there are no problems.

Chairman Yagey felt at this point we do not feel NYSDEC will create a redesign – they would just go back over the numbers and provide us with a letter verifying those numbers, however, we need to ensure these are part of any approval. Chairman Yagey referred to the site map and Phase I.

Board Member Arnold asked if the Sitrin Home was tax exempt. It was stated that this isn't a consideration of this Board. Board Member Arnold feels this project will impose on Town services, which is the road system even though it is a County road. He would like to know more about whether this project will be tax exempt. Board Member Arnold felt that this Board should have an attorney present to address questions that arise where he feels legal counsel is needed. Further discussion ensued regarding seeking legal assistance for this Board. At this time, Board Member Gerald Green made a motion that the Town Board appoint Peter Rayhill, Esq., as the designated attorney whom he feels is consistent and familiar with the issues and who would have the

time to devote to this Board; seconded by Board Member Hans Arnold. Board Member Donovan would like to defer this item until the end of the meeting.

The Board discussed timing of the construction and also referred to the Congregate Living Center proposal. The Board also discussed the setbacks of the structures to the roadway. Town Planner Schwenzfeier said he is satisfied with the proposals. Reference was made to whether a power substation would go through to this property – overhead lines. Town Planner said he is not aware of any overhead lines.

Mr. Pat Scordo, Engineer for the Sitrin Home, appeared before the Board. He referred to the setback concerns and said they are deemed to be adequate.

Motion was made to close SEQR with a Negative Declaration by Board Member Jerome Donovan; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was passed by a vote of 6 – 0.

Motion was made by Board Member Jerome Donovan to grant Preliminary Approval; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was passed by a vote of 6 – 0.

Motion was made by Board Member Bob Wood to grant **Final Approval** contingent on the following:

- 1) That we receive a letter from NYSDEC verifying and approving the calculations
- 2) That the Town Board approve the Performance Bond of the sewers not to exceed \$30,000

and that both of these contingencies be met within thirty (30) days from this meeting date or it comes back to this Board; motion seconded by Board Member Bob Imobersteg.  
Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – no
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 5 – 1.

Board Member Arnold stated that his vote is based on contingencies that he feels are critical and would still feel this way until those issues are satisfied. Board Member Donovan stated he voted yes, but he has a concern with the intersection of Mohawk Street & Higby Road with the assurance we will be addressing this issue along the line.

Mr. Richard Wilson, CEO/Sitrin Home, appeared before the Board stating that he has met regularly with Staff on this project, which he feels will be an asset to the community. He wanted to especially thank Town Planner Kurt Schwenzfeier for his help as he knows Kurt has spent many hours on this project and Mr. Wilson will continue to work closely with him.

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Mr. Pat McCann, **Piggy Pat's BBQ, Edgebrook Place**, New Hartford. Preliminary/Final Site Plan Review of a proposed addition to the front of the existing restaurant. Tax Map #339.016-1-6; Zoning Retail Business 2. Mr. Al Forte, Octagon Engineering, and Mr. Patrick McCann were present to address this application.

Town Planner Schwenzfeier referred to the plans with the proposed 1,470 square foot Bar Room addition. Town Planner Schwenzfeier said Oneida County Planning had a few comments regarding storm water management and the flood plain. It was determined that these are not issues as the development is going in the existing parking area. There were no negative comments received during the SEQR review.

Reference was made to the entrance road and its proximity to Kellogg Road. At this time, Chairman Yagey asked Police Chief Raymond Philo to address the Board with any comments regarding this project. Chief Philo said he had concerns when Piggy Pat's was first built and the first thing he did was work his system to look at accident rates in this area. There were some accidents up the road, but none at this site. According to his data, he has no problem with the addition and there is nothing on record to pass a negative comment. He explained to the Board the process he uses to evaluate areas for proposed projects and how he arrives at a standard.

Mr. Forte was asked by Board Member Green about signage – he stated that there would not be any signage as it already exists. There will be no loss of green space. Reference

was made to the string of yellow lights at the entrance. Mr. Forte said the lights are there to guide people in and they haven't had any complaints.

Motion was made by Board Member Jerome Donovan to close SEQR with a Negative Declaration; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was passed by a vote of 6 – 0.

Motion was made Board Member Jerome Donovan to grant Preliminary Approval; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was passed by a vote of 6 – 0.

Motion was made by Board Member Jerome Donovan to grant **Final Approval** with the condition that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 6 – 0.

Board Member Arnold said it was very helpful to have the Police Chief here with his comments.

Mr. Al Forte wanted to thank Town Planner Schwenzfeier for the excellent job he did working with him on this project.

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**Big Apple Music, Commercial Drive**, New Hartford. Preliminary/Final Site Plan Review of proposed parking and exterior improvements on Commercial Drive. Tax Map #328.016-1-31, 37 and 32. Zoning: Retail Business 1. Mr. Al Forte, Octagon Engineering and Mr. Peter Bolos appeared before the Board.

Town Planner Schwenzfeier said an existing 15,112 square foot commercial building will be renovated to improve parking (two (2) existing structures will be taken down). All improvements will be done on property owned by Mr. Philip Husted and leased by Mr. Peter Bolos. There will be no additions to the existing structure. They want to make the existing structure more aesthetically pleasing. The purpose of the proposed 23 space parking lot is because of the nature of the businesses going in. There isn't adequate parking to meet the Town Code and to do this they have to extend the parking. A guide rail will be installed at the top of the slope and lighting will be placed on the building. There will be a reconfiguration of curbing in the front.

Board Member Green referred to some curbing, plantings or fencing to separate the former Big Al's building from the rest of the area. Town Planner Schwenzfeier said a separation of the parking from the existing bike store to this project should be done. Mr. Forte concurs that some type of green barrier between the bike store and this project should be done and he will work with the Town Planner on this. There will be no curbing as a separation. Board Member Arnold referred to the plantings and how they would resist the snow, etc. Mr. Forte said they will place hardy plantings to make a living fence.

Discussion ensued regarding curbing in the State right-of-way. NYSDOT has planned replacing curbs and adding a lane in 2005 (replacing curbs and adding a lane).

Motion was made by Board Member Bob Imobersteg to close SEQR with a Negative Declaration; seconded by Board Member Bob Wood. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was passed by a vote of 6 – 0.

Motion was made by Board Member Bob Imobersteg to grant Preliminary Approval; seconded by Board Member Bob Wood. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes

Board Member Jerome Donovan – yes      Board Member Bob Imobersteg – yes

Motion was passed by a vote of 6 – 0.

Town Planner Schwenzfeier said that Mr. Bolos has signed a Pre-development Agreement and Memorandum of Understand for this project as it is in the Seneca Turnpike GEIS area.

Motion was made by Board Member Bob Imobersteg to grant **Final Approval** with the condition that a shrubbery barrier be placed between the parking lot and the bike shop and which plan is to be approved by Town Staff; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Bob Wood. Vote taken:

Chairman Joseph Yagey – yes      Board Member Hans Arnold – yes  
Board Member Gerald Green – yes      Board Member Bob Wood – yes  
Board Member Jerome Donovan – yes      Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 6 – 0.

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**St. Luke's Hospital, Champlin Avenue**, New Hartford. Site Plan Review of temporary parking at the right side of the main entrance. Tax Map #317.000-2-2.1; Zoning; Planned Development Institutional. Messrs. Donald D. Ehre, P.E., John Gaetano, and Sharon Palmer appeared before the Board for this project.

Chairman Yagey stated for the record that he is on the Board of Network Data Systems, which is a separate corporation of Mohawk Valley Network, and which St. Luke's is a member. He does not see it as a conflict and, therefore, he does not feel this is a conflict of interest.

Chairman Yagey stated that this Board approved a project about a year ago for St. Luke's. What they are in the process of doing is a major consolidation between Faxton and St. Luke's. The net result is for non-duplication of services. Faxton will be an outpatient, emergency room, cancer facility and St. Luke's will be the birth, long-term surgery and record keeping facility (two (2) separate locations). In order to do this, they have to move people around so they can do the remodeling. A temporary parking lot is needed in order to have adequate parking during this adjustment. They will construct a temporary graveled parking area at the northerly and westerly side of the existing parking to permit 100 additional cars.

Concern was raised as to whether this would become a permanent parking lot as the plan reflects more of a permanent area than temporary. Mr. Ehre explained the process planned for the construction of the temporary parking lot and how this design would affect any future use. Mr. Ehre said snow removal will be addressed and placed on site.

Board Member Arnold asked if it is a cost factor not to go with a permanent parking lot? Mr. Gaetano said this is a layout of what they need at this time and they do not have any plants to make it permanent. Board Member Arnold asked how the Board would look at this if the applicant wanted permanent parking. . . green space, lighting, etc. would need to be addressed.

Board Member Imobersteg asked when the restoration of Faxton would be completed – Ms. Palmer said the fall of 2005 based on all their predictions, but most parking spaces are needed at the beginning. Ms. Palmer also stated that there will be a significant amount of contractors who will need to use the parking, also.

Concern was raised about the in ground power line and parking over it, however, Mr. Ehre said it is 3’ down and there is no problem with it.

Town Planner Schwenzfeier said this application has to go to NYSDEC because it disturbs more than an acre. Also, the Town will require a signed Pre-development Agreement and Memorandum of Understanding before any Final Approval.

Motion was made by Board Member Bob Imobersteg that the Planning Board be Lead Agency for St. Luke’s temporary parking; seconded by Board Member Bob Wood. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was passed by a vote of 6 – 0.

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**The Orchard, Clinton Street/Middle Settlement Road.** Two-lot subdivision on Middle Settlement Road. Tax Map #316.020-1-11.1; Lot Size: Approximately 29 acres; Zoning: Planned Development Mixed Use. Mr. Larry Adler appeared before the Board.

Chairman Yagey stated that this is a Minor Two-lot Subdivision. He stated that the Minor Subdivision requirements were put into place where you can’t come back until

after three-years which would prevent the piece-mealing of property. Mr. Adler had a Minor Subdivision with the purchase of property known as The Orchard. Now one of the stores coming into his complex, Gander Mountain, wants their parcel subdivided from the rest of the center. Mr. Adler is asking for a Minor Subdivision for this tenant – it does nothing to the project but allows that piece of property to be separated from the others. Chairman Yagey said he didn't want to sign the Minor Subdivision strictly because he feels this Board should be informed of it and he is asking this Board to concur.

Codes Enforcement Officer Jerry Back said the Zoning Law for Minor Subdivisions was basically for residential property – he felt it wasn't meant for commercial properties. Mr. Back said he and Town Planner Schwenzfeier felt this could be signed. Town Planner Schwenzfeier said Oneida County Planning addressed this issue and the Commission said they don't consider this a Major Subdivision under the Realty Laws, and that it is up to how the Town interprets it. In the County's opinion, the Chairman of the Planning Board alone can sign a Minor Subdivision within three (3) years as long as it is not a Major Subdivision.

Board Member Bob Wood asked if Mr. Adler is still the developer and would still have access for easements? Mr. Adler said he is still the developer and everything he got approved for is still binding.

Board Member Arnold addressed Town Supervisor Ralph Humphreys, who was in attendance, stating that here is another situation where this Board should have an attorney present. Board Member Arnold asked if Gander Mountain would have title – Mr. Adler said yes. Board Member Arnold felt this should be referred to a lawyer and he would like to see what the procedure says. Chairman Yagey said he could sign this, but he wanted the Board to know what was going on.

Board Member Green asked if there was something from the Town Attorney addressing this application to alleviate any concerns the Chairman may have? He wanted to know if there was any legal ramification to this? Discussion ensued regarding this application and the procedure to move forward.

Codes Enforcement Officer Back said he drafted this law to alleviate the review of the Planning Board for Minor Subdivisions. The three-year comment was done to avoid the piece-mealing of lots. He said that Chairman Yagey is following the Code and bringing it before the Board for their input and possible approval. Mr. Back said there is an Administrative Review Committee which includes the Town Engineer, Town Planner and himself to review Minor Subdivisions and which allows the Chairman to sign Minor Subdivisions. Mr. Back said he doesn't have a problem with the signing of this Minor Subdivision.

Mr. Adler said this Minor Subdivision doesn't change the project at all, and he has gone through all the proper procedures to build his project and he doesn't want to hold this up.

Board Member Arnold again stated that he feels a legal opinion is warranted and that is what he wants. He has no problem with this property going to Gander Mountain, but he feels this Board should follow the Code.

Board Member Green felt that a motion be made that we get a letter within twenty-four (24) hours from a duly appointed counsel to the Planning Board that states he approves this Minor Subdivision for signature, which would allow for no legal ramifications (there was no second). Board Member Donovan felt that this is just a re-conveyance of property.

The Board discussed this application in detail. After further review, motion was made by Chairman Joseph Yagey to approve the signing of this Minor Subdivision for Mr. Adler, which would subdivide the property into two (2) lots; seconded by Board Member Bob Wood. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – no
Board Member Gerald Green – no	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 4 – 2.

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**Mr. James Johnson, 8620 Seneca Turnpike and 6 and 8 Paulevan Place, New Hartford.** Seneca Turnpike Tax Map #328.016-2-28; 6 Paulevan Place Tax Map #328.016-3-40; 8 Paulevan Place Tax Map #328.016-3-39; Zoning: Planned Highway Business. Conceptual Site Plan Review as Mr. Johnson is proposing to combine the three (3) properties into a single property and plans to demolish the existing garage on Seneca Turnpike and remove the existing trailer at 8 Paulevan Place. The two (2) remaining structures are proposed to be converted into office space. Mr. Donald D. Ehre, P.E., and Mr. (Mike) Johnson appeared before the Board.

Chairman Yagey explained that this project was before this Board previously, but it was determined that Mr. Johnson required variances from the Zoning Board of Appeals. Mr. Johnson has been to that Board and received all necessary variances on May 17, 2004.

Town Planner Schwenzfeier stated that Mr. Johnson will be combining three (3) lots into a single property and plans to demolish an existing garage on Seneca turnpike and remove

an existing trailer at 8 Paulevan Place. The two (2) remaining structures are to be converted into office space. The structure on Seneca turnpike would be 1,760 square feet on two (2) floors and 6 Paulevan Place would be 725 square feet on one (1) floor. It would include an extension of the driveway from the rear of Seneca Turnpike through the former property at 8 Paulevan Place and connect to 6 Paulevan Place. Nine (9) parking spaces are proposed with two (2) handicap spaces. A concrete sidewalk is proposed adjoining the parking lot to the offices.

Board Member Green said he is familiar with this project and he has a concern with that area as a whole as it should have some sort of comprehensive review with the other properties adjoining this parcel. He mentioned the recent changes with Seneca Turnpike Liquors, the former Klancey's Restaurant and some future changes with a house on Paulevan Place and Clinton Road (all properties owned by Thomas Riley). He would like to see something more comprehensive.

Chairman Yagey stated that it is the recommendation of Staff that we hold a Public Hearing for this project because there were some comments made by residents in the area who appeared at the Zoning Board of Appeals meeting, i.e., traffic, safety, parking, etc.

Mr. Johnson said he feels questions were addressed by the Zoning Board of Appeals. He submitted a traffic report in this area. Board Member Arnold said what Board Member Green outlined is essential and the Planning Board has the obligation and the power to make sure this development is done right and sensitive to the remaining area. Board Member Arnold would like to request that the Town Planner convene a meeting with this developer and Mr. Riley, as well as some others, who may be contemplating some development and at least explore whether or not a whole site plan can be developed and have a connecting driveway plan. He feels the Town can be an advocate through the Town Planner for this area.

Mr. Ehre said Mr. Johnson is asking for an office-type use, which is a transitional use. The buildings are there and an office is permitted under Site Plan Review. He feels that he is making that area better as he will be removing a couple of dilapidated structures. Mr. Ehre stated that he feels opening the driveway access would only promote additional traffic and become a safety concern.

Mr. Johnson referred to Board Member Arnold's suggestion, however, the thoughts of other developers is not what he wants. The level of development here is a minor thing, to involve other landowners and other business owners for a bigger plan is not what he prefers. He feels this would become a major development and he is not prepared for this type of impact. His plan is to have office space, be opened from 9 to 5 with nine (9)

parking spaces. The driveway is existing now and he will plant shrubs and make this area aesthetically pleasing.

Chairman Yagey felt we had these options . . .

- 1) Declare the Planning Board as Lead Agency for SEQR and send it out for review as the developer has given it to us; receive comments from the agencies for review; hold a Public Hearing
- 2) Proceed in the direction of taking a look at this whole corner to see if we could get the other individuals together to lay out some sort of plan and to have some discussion regarding this area.

Board Member Bob Wood asked Board Member Green if he is looking for a better traffic route? Board Member Green stated that this plan is on the table and Mr. Riley may be coming through with parts adjoining this.

Board Member Arnold stated that this represents the transition between commercial and residential and he feels extra care has to be taken here and he feels it is worth the attempt to get everyone together. He referred to Section 118-21 of the Town Code relating to Financial Guaranties; Section 118-25 General considerations for Planning Board Review of Site Plans and Section 118-26 Specific Standards for Planning Board Review of Site Plans. He feels the interests and impacts on the Town and this neighborhood warrant a closer look. He would like to see a coordination of the site plan to protect the remaining residential neighborhood and make sure we don't create more traffic problems. Board Member Arnold is against sending out for SEQR as SEQR review is for the plan that is submitted.

Board Member Donovan felt this should be sent out for SEQR and let this project go forward on its own. Perhaps informal contacts by Staff can still be done even with SEQR started.

Town Planner Schwenzfeier said Mr. Riley has gone through Site Plan Review for a project and he will be required to come back to this Board if he does something different. He further stated that Mr. Riley doesn't have any additional proposal to this Board at this time. He feels there is a question as to whether we can have different property owners determine what they can or can't do with adjacent property.

Discussion ensued regarding whether to send this application for SEQR review. Chairman Yagey reiterated that this Board determines whether a project gets approved or not. He also felt we have an obligation to take Mr. Johnson's plan and accept it or reject

it. Chairman Yagey said it is his feeling to proceed with SEQR and this Board be Lead Agency in order to receive input from the Involved Agencies.

Motion was made by Board Member Jerome Donovan to have the Planning Board be Lead Agency on this project and during this SEQR review, have the Town Planner try to develop a comprehensive plan with the other property owners in this area; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – no
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was passed by a vote of 5 – 1

Board Member Arnold said he stated his reasons previously for not wanting this to proceed for SEQR review.

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**Home Depot, French Road**, New Hartford. Amendment to Final for a proposed 2,400 square foot addition to the front of their building. Tax Map #317.000-2-8.6; Zoning: Retail Business 2. Mr. Donald Kotas, Engineer from Sharon, Connecticut, appeared before the Board.

Town Planner Schwenzfeier stated that this is an Amendment to Final Site Plan Approval for a proposed 1,764 square foot structure to be added to the front of the existing Home Depot. Also, a 480 square foot 12' high fenced storage area is proposed. Both proposals will be in an existing area.

The Board reviewed the application, and motion was made by Board Member Hans Arnold to approve the **Amendment to Final Site Plan for Home Depot**; that their Pre-development Agreement and Memorandum of Understanding be signed; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Jerome Donovan. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 6 – 0.

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**Savings Bank of Utica (SBU)**, lights at **Consumer Square, Commercial Drive**, New Hartford. Tax Map #317.013-3-23.61; Zoning: Retail Business 1 (RB1). Mr. Paul Russo and Mr. David Bonacci appeared representing the Savings Bank of Utica. Mr. Bonacci addressed the Board stating that they are not here from the Benderson Corporation – they are the architects directly for Savings Bank of Utica.

Chairman Yagey stated that this is not a situation where we are changing anything in the plan. SBU came to us with a lighting plan. With a review of the lighting plan, it was determined that the major objection is that the proposed lighting is too bright. They have ten (10) poles in place of the original three (3) poles approved. The plans displayed the ratios of lighting at this site.

Mr. Russo explained why certain areas of the site require a more illuminated area, especially by the ATM machines – it is for safety reasons. They also stated what the lights will look like, i.e., there will be two (2) different type fixtures.

Chairman Yagey said the developer is Benderson, and they are the ones that got the approval. Mr. Bonacci said there was a lack of communication between Benderson and the Savings Bank. Mr. Bonacci said the bank felt uncomfortable that they weren't being represented properly and that is why they are here. The bank is losing construction time for these lights, which will delay their opening – the underground work can't be done until this is approved. Mr. Bonacci also said that there is a law requiring the banks to meet certain lighting levels. Mr. Russo referred to the requirements of the New York State Banking Law.

Chairman Yagey said that after a review of their plan, in some areas they far exceed the ratios for lighting, and it especially affects the Royal Brook Lane area in New York Mills.

Board Member Arnold stated that if the engineer and architect came in with a letter from Benderson to represent this application, we could address it, but they don't have this.

Town Planner Schwenzfeier said he requested Benderson to be here this evening, but they aren't here. He also said the bank was on site at a different area originally and they had a lighting plan nowhere near what is presented now.

The Board has concerns regarding the amount of wattage at this site. Board Member Green would like to make an informed decision, but doesn't feel he or this Board has enough information to make that kind of decision.

Board Member Donovan asked whose lights will these be – it was stated the bank is on a land lease; the bank is paying for this but it is part of the land lease. Board Member Donovan also has concerns about this plan.

Town Engineer John Meagher referred to the lighting plan and the direction of the lights.

After a further review of the plan and continued discussion on the levels of lighting, motion was made by Board Member Hans Arnold that the Planning Board delegate the authority to approve a final lighting plan to Town Planner Schwenzfeier and Planning Board Chairman Joseph Yagey to do their final determination – any change has to be acceptable to them and to the Safety Code; seconded by Board Member Imobersteg.  
Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – no
Board Member Jerome Donovan – no	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 4 - 2.

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There being no further business, the meeting adjourned at 8:00 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary

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