

**MINUTES OF THE REGULAR MEETING**  
**JANUARY 28, 2005**

The Regular Meeting was called to order by Vice-chairman Hans Arnold at 4:30 P.M. at which time the Pledge of Allegiance was recited. Board Members present were Gerald Green, Bob Imobersteg, Jerome Donovan, Bob Wood and Ronald Morelle. Absent: Chairman Joseph Yagey. Also in attendance were Town Supervisor Ralph Humphreys; Town Planner Kurt L. Schwenzfeier, AICP; Senior Engineer John Meagher; Special Counsel Peter Rayhill, Esq.; Acting New York Mills Planning Board Chairman Leo McCoy; and Secretary Dory Shaw.

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

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**AGENDA ITEM:**

**Park View Estates Mobile Home Park, Middle Settlement Road, New Hartford.**

Zoning: Planned Development Mobile Home. Requesting expansion of 12 mobile homes. Proposal to send out for SEQR and to have Planning Board be Lead Agency. Mr. Donald D. Ehre, P.E., and Mr. Joseph Dodge, appeared before the Board representing Park View Estates.

Town Planner Schwenzfeier stated that Park View Estates presently has 218 mobile home sites. The proposed development is Phase 3A on approximately three (3) acres for an additional twelve (12) mobile homes. Public water and sewer is available; storm water will be contained to the southwest portion of the site (which is not a building lot). Discussion ensued regarding setback requirements.

Mr. Ehre addressed the Board stating that all utilities are on the property, which are operated and maintained by the owner. There is a light and air easement to the adjacent property owned by Mr. Bonomo. Also provided is a green space area. Roads will be maintained by the owners. Mr. Ehre stated that when the previous rezoning process of this property took place, the County wanted a right hand turn in and right turn out only. Reflectors will be installed as well as signage.

Board Member Green asked Mr. Ehre if new roads are going in – Mr. Ehre said yes. Board Member Green asked if the owner anticipated these roads in this development to be dedicated and taken over by the Town – Mr. Ehre and Mr. Dodge said no.

Vice-chairman Arnold asked the Board Members if they had any other questions – there being no further discussion, motion was made by Board Member Imobersteg for the Planning Board to be Lead Agency; seconded by Board Member Ronald Morelle. Vote taken:

Vice-chairman Hans Arnold – yes	Board Member Bob Imobersteg–yes
Board Member Ronald Morelle – yes	Board Member Gerald Green – yes
Board Member Bob Wood – yes	Board Member Jerome Donovan–yes

Motion was passed by a vote of 6 – 0. Town Planner Schwenzfeier stated for the record that the Involved Agencies for SEQR is NYSDEC, OCDPW, Oneida County Planning, New Hartford Police, New Hartford Fire, Water Board, Oneida County Health, and Sacred Heart Cemetery.

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**DISCUSSION ONLY FOR THE FOLLOWING PROJECTS:**

**1) Longworth Acres.** Proposed 14-lot Major Subdivision for residential homes on **Tibbitts Road and Snowden Hill Road**, New Hartford, property is approximately 60 acres owned by the Owens family. Zoning: Residential/Agricultural 2. Attendance by representative of Shumaker and also by Director of Parks, Town of New Hartford; revisions to plan. Mr. Donald Ehre, P.E., Mr. William Virkler, and Mrs. Barbara Couture appeared before the Board for this project.

Town Planner Schwenzfeier restated where we are in the process and the status of the plan that is submitted – we are still at the SEQR process. A Public Hearing is required on this project. After the outcome of a Public Hearing, the Planning Board still must decide if to close SEQR and whether or not to grant Preliminary and Final Approval, approval with conditions, or disapproval. We have received new plans and have been revised to show the Water Board’s request that a pump station and water line be installed along Tibbitts Road to serve the lots fronting Tibbitts Road. They will now have to put in the water main crossing from the north side to the south side of Tibbitts Road, which is at the bottom of Lot 9. Water will be located on the south side of Tibbitts Road and will serve the lots facing the north portion of Longworth Acres (Lots 1-9). They have proposed to provide another crossing from upper Jubilee Lane to Longworth Acres where they could be connected from the 8” existing water main on Jubilee Lane. Town Planner Schwenzfeier talked with Fire Chief David Reynolds who requested we assure him that the roads have adequate width for two (2) pumper trucks to pass each other – 24’ in width and based on Town standards for road width – turning radiuses are okay. The developer stated that the proposed drive is 20’ but can be made to 24’. Town Planner Schwenzfeier will reconfirm this requirement in writing from Fire Chief Reynolds.

Board Member Green referred to the internal private drives and access – the upper drive will be lined up with Jubilee Lane. The other drive is between lots 7 – 8. The water main addressed public water to nine (9) lots for domestic use only – not fire flows. Lot 10 is available for water now as it is on Oxford Road. The lots on wells would be Lots 11, 12 and 13.

Town Planner Schwenzfeier was asked to address the proposed water tank and its location. It would be located on out lot B with a water tank access easement to Snowden Hill Road (2.3 acres on the back end of Lot 4). Vice-chairman Arnold asked, would this lot be conveyed or permanent easement – Town Planner Schwenzfeier said we would have to ask the applicant.

Board Member Imobersteg referred to the internal roads and if they would be maintained by property owners – they are private drives and not Town dedicated roads. It will face three lots with several owners and they would have to have some kind of agreement or understanding on maintenance of it. It would probably be a part of the deed restrictions. Vice-chairman Arnold asked if any lot was set aside for storm water – no, not at this time.

Mr. Virkler stated that the back portion of the lots are forever wild and he would be willing to assist the Town with some storm water facility depending on the location.

Vice-chairman Arnold introduced Mr. Curt Nichols, P.E., from Shumaker Engineering to review his evaluation on storm water management for this property. Mr. Nichols has been retained by the Town of New Hartford to do an overview of this development area. He stated that this area is prime for residential development based on the future construction of Judd Road Extension and over the past year there has been substantial downstream overtopping or roadside ditches across Oxford Road to the north of Jubilee Estates. He reviewed the water shed across Longworth Acres site. He displayed an aerial view for the Board to review.

Mr. Nichols described the water flows and how those flows affect the existing culverts. He referred to the existing swales and water flows on Tibbitts and the Sauquoit Creek Water shed areas. He reviewed the drawings and calculations and the drainage patterns now and future, depending on development . Mr. Nichols determined the following:

- The development is being constructed in a watershed area with known downstream flooding problems during large rainstorms. Although the engineering calculations support a slight reduction in the total runoff from the post developed site, the incremental reduction in runoff relative to the runoff from

- the entire impacted watersheds is currently unknown, but is not likely sufficient to remedy the downstream flooding problems.
- Although the engineering calculations prepared to date seem to reflect an accurate site development model, they should be expanded to include calculations for peak runoff, and time of peak runoff. These calculations should be made independently for each watershed or drainage area impacted by the new development.
  - The development falls into Category B development in accordance with the Phase II Storm water Regulations. This category requires a full Storm water Pollution Prevention Plan, Sediment and Erosion Control Plan, Storm water Quality and Quantity Design, and a NYSDEC Notice of Intent be in place prior to the initiation of any construction on the site.

Mr. Nichols feels that study should be done on the whole hillside as outlined on the map presented to the Board, which would cost approximately \$31,000. The study would identify the existing capacity of the existing down stream storm conveyance systems. It would look at that and come up with a number as well as future developments regarding discharge levels. It would give a number to limit this development and all future developments. If they can't mitigate on site, the project can't go forward. He would look at infrastructure and make some recommendations in this area.

Vice-chairman Arnold asked Mr. Nichols, if anything was done on Longworth Acres, would the Town still have a problem – Mr. Nichols said yes. He also asked, if he conveyed his concerns to extend the calculations to the applicant's engineer in writing – Mr. Nichols said no. Vice-chairman Arnold requested that this be conveyed to the applicant's engineer. He also referred to the permit – is this something of a requirement from NYSDEC through SEQR or is it up to the Town – Mr. Nichols said he feels it is the Town's responsibility because the NYSDEC is relying on the State to implement this program. Mr. Ehre addressed the Board stating that he met with NYSDEC and had provided information on this – Mr. Nichols felt it needs to be made part of the contract documents.

At this time, Vice-chairman Arnold stated that a concerned resident was present and although this is not a Public Hearing tonight, the resident wanted to address the Board with her concerns. Those concerns being, sediment, safety of children, traffic, drainage, requested signage, and requested sidewalks. She thanked the Board for their attention to her concerns. She was advised to contact the Town Board, especially with her concerns regarding sidewalks.

Mr. Ehre addressed the Board regarding Mr. Nichols' concerns:

- Mr. Nichols' stated that the runoff from this site would be equal to or less than what comes off the site now. He asked if it was the applicant's duty to correct the problems of the past.
- He referred to watershed A and impact to watershed B – and water flows.
- NYSDEC had reviewed the plans – they will file a Notice of Intent before they start
- If additional calculations are needed, he will certainly do so.
- Drinking water – they have provided a site for the Water Tank and the out lot is there – the water tank site would be provided to the Water Board under their ownership. The access easement that provided space is a pumping station that the Water Board needs. The Town would be provided drainage easements. A new set of plans have been sent to the Water Board showing them what they have done. Lots 6, 7, 8 and 9 are available for water and have fire protection. Lots 1 – 5 have domestic water only.
- The sanitary sewer has been moved – the new plans show the sanitary sewer line in the utility easements that parallel Tibbitts Road.
- The driveway width is for a 20' drive with 2' shoulders – and he feels this is the same as a Town road. However, if the Fire chief is requesting a width of 24', they will do so.
- Any comments made under SEQR have been shown on the revised plans.

Considerable discussion was held regarding topographic layouts of the lots, site detention, mitigation factors, water pressure, fire protection, culvert delivery systems, parkland, and open space.

Vice-chairman Arnold addressed Mr. Virkler and stated that this project has been before the Board for several months with a number of concerns and had recommended some alternate site plan. Vice-chairman Arnold asked Mr. Virkler if he is going to keep the plan the same as far as lot layout, which includes the parallel driveways along Tibbitts Road – Mr. Virkler said yes.

Mr. Virkler was asked about open space – Mr. Virkler said that don't have any objection because it will be with the lot as the lots are deep and he assumes would be forever wild. He said there is nothing designated. Mr. Virkler stated that he feels he has always exceeded specifications and he referred to other projects in the Town that he has developed. Mr. Virkler said he will be happy to work with the Town on the storm water issues that exist and put it in writing to the Town Board, but he feels he hasn't been responded to by this Board. Also, he will work with slowing down the water and give a piece of land to the Water Board for a water tank, and dedicate drainage easements to the Town to allow them to come in whenever they want if there are storm water or drainage issues. He would like to see this project move forward.

Board Member Green addressed Mr. Virkler stating that it is his understanding of what Mr. Nichols said vs. what Mr. Ehre said vs. a legal standard and that while a legal argument can be made that this project, as proposed, does not exacerbate the existing water runoff problem, Mr. Nichols is saying a further study is required – that there is a need to calculate further because he believes there is an acceleration of runoff resulting in additional peak flows which could be produced by this development.

Vice-chairman Arnold feels that we need to address the following:

- Our consultant, Shumaker Engineering, has made a specific recommendation of additional calculations, engineering evaluation that the applicant should do to determine and adequacy of the storm water management system for this development alone and to decide if this Board wants to do this as a condition for further review;
- To decide if an analysis of a larger area up the hill is necessary before we can move forward with any final approval on this project (the Town Board has asked us for a recommendation on this study and we need to address this before we can act);
- The Planning Board has looked at this plan for many months with modifications made and addressed specific concerns.

Vice-chairman Arnold feels we should advise the developer if there are significant problems with this plan whether it is the configuration of the lots, open space, parallel driveways, not all roads being service by public water, i.e.. The Town Board has approved the Planning Board to retain Peter Rayhill, Esq. and we wanted him to respond to questions that Board Members may have on this project.

A question was raised about payment of the proposed study. Attorney Peter Rayhill stated that we can make the developer pay for the study, but we are limiting it. The developer is bringing a condition to the citizens because we are talking about a larger area. He suggests going with the larger study, but the question becomes, are we going to separate the two? Mr. Curt Nichols stated that these are two (2) separate issues. Discussion was held regarding any possible litigation – Attorney Rayhill addressed the impacts to the Board. Discussion also took place about the approval or denial of this project based on what exists there now.

Attorney Rayhill was asked if it is within our jurisdiction to acquire public access for open space – Attorney Rayhill said he would like to check the Town Zoning Law in conjunction with Town Law and get back to us in writing.

Mrs. Barbara Couture, owner of this development, asked to address the Board. She stated that Mr. Nichols said the water runoff will be the same – she doesn't see ten (10) proposed homes causing a problem for runoff. She noted that this project has been before for the Board for sometime and she would like to have some answers.

At this time, Vice-chairman Arnold stated the following concerns. . .1) water quality from runoff – Town or State jurisdiction; and 2) open space requirement – who regulates that activity; and those items need to be addressed in writing.

Board Member Green noted that he would like to see this area developed properly and obviously this is a good opportunity that impacts what happens down the road. He believes that in order to make an informed decision, we need this larger storm water study.

Motion was made by Board Member Bob Imobersteg to direct Mr. Curt Nichols of Shumaker Engineering to put in writing the additional analysis he needs from the developer's engineer and storm water and direct the applicant to respond to these issues; seconded by Board Member Ronald Morelle. Vote taken:

Vice-chairman Hans Arnold – yes	Board Member Bob Imobersteg–yes
Board Member Ronald Morelle – yes	Board Member Gerald Green – yes
Board Member Bob Wood – yes	Board Member Jerome Donovan-yes

Motion passed by a vote of 6 – 0.

The Board Members discussed the proposed study at a cost of approximately \$31,000.

Motion was made by Board Member Gerald Green to recommend to the Town Board that a comprehensive study as outlined by Shumaker Engineering be undertaken (the area in and around Tibbitts and Oxford Roads) and that the Town authorize the payment for that study; seconded by Board Member Bob Imobersteg. Vote taken:

Vice-chairman Hans Arnold – yes	Board Member Bob Imobersteg–yes
Board Member Ronald Morelle – yes	Board Member Gerald Green – yes
Board Member Bob Wood – yes	Board Member Jerome Donovan-no

Motion passed by a vote of 5 – 1.

Board Member Donovan stated that he voted no because it is not clear to him whether or not it would be part of the SEQR action for this project.

The Planning Board also expressed the importance of this study to evaluate Storm Water impacts for the entire hillside as well as to provide an understanding of how the Longworth Acres parcel will fit into the larger picture.

Mr. Nichols was asked how long this study could take – Mr. Nichols said from a month to six (6) or seven (7) weeks.

Board Member Donovan referred to Town Supervisor Ralph Humphreys asking him if he had any comments about tying this project to this study? Town Supervisor Humphreys stated that the Town Engineer, John Meagher, was present and could answer some questions. Mr. Meagher described the pipe sizes that exist in the Tibbitts and Oxford Roads area and the flow of water. He feels there can be some corrections that could be made with piping. Town Supervisor Humphreys said the Town will take a look at our recommendation, but the big problem is the water flooding residences on Oxford Road. He referred to another storm water study that was done on Jubilee Estates.

The time limit for SEQR was addressed. Attorney Rayhill stated that he would check into the time frame for SEQR as it relates to the study.

Vice-chairman Arnold noted for the record that this Board's recommendations be conveyed, and a copy of these minutes be highlighted, to the Town Board Members because of the extensiveness of this review and the justification and need for this study.

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**2) Valley Gymnastics, New Hartford Street, New Hartford.** Proposal to convert the rear cold storage building to office use. Continued use of the rear 20 feet of this building would be used for storage of gym equipment, but improvement to the front portion of the building to provide a larger area for the karate school, additional bathrooms and rental office space. By moving the karate school out of the front building, viewing areas for the dance studio can be expanded and a small office or storage area created in its place. Zoning: Retail Business 2. Update on SEQR responses. Mr. Donald D. Ehre, P.E., appeared before the Board.

Town Planner Schwenzfeier updated the Board on the SEQR status for this project:

- NYSDEC has no concerns or comments;
- Oneida County Planning Department recommended approval without comment;
- OCDPW stated they see no significant impacts to New Hartford Street and that if any work is done within the County highway right-of-way, a permit must be obtained;

- Niagara Mohawk has not responded yet regarding the collapsed culvert issue. (The Town Planner will check into this further).

Vice-chairman Arnold referred to the culvert issue and advised Mr. Ehre that we would like an answer by next month's meeting. Mr. Ehre said the water puddles on the property and the owner/developer of Valley Gymnastics doesn't have a problem with this. Mr. Ehre stated that he would contact Niagara Mohawk also.

The Town Planner said he has not received any adverse comments on this project.

Vice-chairman Arnold asked the Board Members if they had any questions – there being no further discussion, this project will be addressed at the next meeting.

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**3) Eckerd's, Commercial Drive/Henderson Street.** Proposed pharmacy in the **Town of New Hartford and Village of New York Mills** on approximately 3.91 acres. Zoning: Retail Business 1. Update on revisions to plan. Theresa Bakner, Esq., Mr. Jim Rumsey, and Mr. Dan LoBlamowski appeared before the Board.

Town Planner Schwenzfeier reviewed the revised plans indicating:

- The developer has provided 34% of green space as requested by removing some parking and they narrowed the distance from the property line;
- Snow storage will be on the green space;
- Board on board fencing with shrubs/trees along the entire southwest side that abuts residential;
- Plan shows new curb cut on Commercial Drive;
- Extended the plantings along Commercial Drive to provide additional screening by loading dock and dumpsters;
- Negative comments about the existing curb cut;
- Concerns regarding tractor trailer turning radiuses;
- Parking space sizes are larger, 9' x 20'.

Board Member Green stated that he had the following concerns with regard to the revised plan:

- The proposed curb cut is only 33' which is not wide enough for three (3) lanes of traffic, that being one (1) lane into the site and two (2) lanes out onto Commercial Drive;

- The curb cut for this site on Commercial Drive should be further south where an already existing curb cut is located which measures 47’;
- Since the traffic flow from the Commercial Drive entrance and the Henderson Street entrance is being directed toward the parking spaces on the Henderson Street side of the site, the parking spaces along Commercial Drive should be eliminated and added as another row of parking spaces on the Henderson Street side. To accomplish this, the proposed building will have to be moved further south on the lot. By doing this, you will facilitate a smoother flow of traffic on the north and west sides of the proposed store;
- The 34% green space for this site should be accomplished by expanding the green areas on the Commercial Drive side of the site, the Henderson Street side of the site, and along the proposed fence on the eastern side of the site. As the developer refuses to disclose the future use of the remainder of the lot, green space on the southern side of the proposed development should not be figured into the 34% calculation;
- The fence along the eastern side of the lot is the final line of demarcation between this commercial property and the neighboring residences. For this reason, the fencing should be sturdy enough to stand the test of time, should provide a noise barrier, should be substantial enough to support the snow that will inevitably be plowed up against it and should be high enough to provide privacy for the neighbors. An upscale masonry wall that is aesthetically pleasing is suggested

Vice-chairman Arnold asked Town Planner Schwenzfeier if the paving is calculated in open space – he said yes. He also asked Attorney Bakner if they paved for a new entrance to that unkept lot, can they meet the 34% - Attorney Bakner said yes, but this is one whole parcel, it is not a subdivision.

Board Member Green addressed fencing and what he perceived that the residents affected wanted stating that he thought they would like something more permanent, i.e., a concrete-type wall – something more of a sound barrier. He feels a wooden fence would need maintenance and he is concerned about the snow load (it was stated that snow would not be placed along the fence). Attorney Bakner said at this point they would not want to do a masonry fence – they will maintain the wooden fence. The board on board fence is aesthetically more pleasing. She asked if there was a specific standard for privacy fences in the Town – the answer was no. Attorney Bakner was also advised that there is a 6’ fence height limit in the Town of New Hartford. She would also like some guidance from the Board regarding an 8’ or 6’ fence.

Discussion ensued regarding the turning radius for tractor trailers and what could be done at the site for what the Board feels could be better traffic flow.

The Acting Village of New York Mills Planning Board Chairman, Mr. Leo McCoy, addressed the Board stating that he felt the people wanted something more than just a wooden fence. Also, he wants to be assured that when the right turn in and right turn out is constructed, there is to be no left turn onto Henderson Street. He is concerned about the entrance on Commercial Drive as he feels it is dangerous. Vice-chairman Arnold stated that he thought the developer said they would do that but only until Judd Road opens and then reevaluate it. Mr. McCoy feels that this decision should be determined by the Village of New York Mills, not the developer.

Attorney Bakner referred to the plans that s have shown the green space are 10 additional feet to the proposed curb cut, not to the existing curb cut. She said NYSDOT gave them a certain limit beyond where they can't go. They met with NYSDOT over a year ago and they can move this as far south as they wanted as long as they don't go near the tapered area. She stated the turning lane doesn't have to be fixed as it was recently installed. Attorney Bakner said NYSDOT approved both of these entrances from their perspective. Henderson Street was approved as a full entrance because they are looking down the road for Judd Road. NYSDOT controls a lot of what happens on Henderson and all of Commercial Drive. However, she said they understand the concerns the Village of New York Mills has. They have ton go back to NYSDOT to get the traffic numbers on Judd Road to see the changes at the intersections and go forward from that point to determine whether or not to leave the sign up stating no left turn or take it down.

Discussion ensued regarding the NYSDOT's comments and Town Planner Schwenzfeier will contact NYSDOT to have the location of the curb cut on Commercial Drive verified in writing.

Vice-chairman Arnold referred to the comments made by Board Member Green. Mr. LoBlamowski said it is no different from most driveways. If the driveway is moved they feel they may have a conflict. Their plan now allows two (2) or three (3) cars can come in without a problem – there should be no stacking. The drive aisles are 24'.

Board Member Imobersteg felt we should restrict the exit to just right out to Henderson on the plans because if we don't, we've lost control - what if something changes and the parcel is sold. Attorney Bakner said anything different taking place at the site, they would have to come back before the Board again.

The issue of a concrete wall vs. wooden fence was brought up again as Board Member Green felt the people wanted the concrete. The Board talked about wood vs. masonry and noise absorption. There may be other avenues to explore regarding fencing. Board Member Green also stated that moving the building and some parking, can create more room on the site as he anticipated people will want to drive straight through into any

future development adjacent to this site. Attorney Bakner also stated that Brooks (who purchased Eckerd's) has a certain type building they use with a certain layout.

Vice-chairman Arnold asked the developer if they had any other comments. Mr. LoBlamowski referred to the traffic pattern as a good one and one that wouldn't create problems. Vice-chairman Arnold felt that Board Member Green had some good recommendations. Board Member Green suggested another Board meeting with New York Mills and collectively come to a decision. Acting Planning Board Chairman Leo McCoy agreed as he is only one (1) Board Member here this evening.

Board Member Donovan asked Attorney Bakner, if the parking spaces along the building were eliminated, where would they be made up. Attorney Bakner felt that this recommendation is not good because it would move more traffic behind the homes. In terms of moving parking spaces, they have some flexibility. She said the tenants have certain basic needs and she appreciates Board Member Green's comments, but there is a reason why the building is designed this way – it meets all Codes and setbacks. She feels this is the most less objectionable site – it is a lower keyed type business and she doesn't feel Brooks would come back with a plan to change the building.

Attorney Bakner would like to move forward with this project and she referred to the SEQR process. She is not objecting to another meeting between the New Hartford Planning Board and the New York Mills Planning Board. She also asked Town Planner Schwenzfeier if he is waiting for other comments – he said no. She would like a consensus from this Board regarding location of the building as the client said they won't change the size or shape. They feel it would put more traffic behind the neighbors. Attorney Bakner also stated that at the joint meeting, would the New Hartford Planning Board be in a position to issue a Negative Declaration. Board Member Green said the concerns of this Board are to address all issues. Board Member Donovan said if we were to have a joint meeting and vote, both Boards would have to independently do their own meetings in compliance with the law.

Board Member Donovan would like the developer to submit pictures of fence and materials.

Mr. McCoy will advise of possible meeting dates and get back to Secretary Dory Shaw.

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Vice-chairman Arnold had Town Planner Schwenzfeier give the Planning Board a brief update on current and future projects.

Town of New Hartford  
Planning Board Minutes  
January 28, 2005  
Page 13

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

Respectfully submitted,

Dolores Shaw  
Secretary/Planning Board

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