

**MINUTES OF THE REGULAR MEETING**  
**SEPTEMBER 11, 2006**

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 Hans Arnold, Peggy Rotton, Rodger Reynolds, Bob Wood, Jerome Donovan and Bob Imobersteg. Also in attendance were, Superintendent of Highways Roger Cleveland, Town Planner Kurt L. Schwenzfeier, AICP, Senior Engineer John Meagher, and Dolores Shaw, Secretary.

In respect of the individuals who gave their lives on September 11, 2001, the Board Members had a moment of silence.

Chairman Yagey stated that the agenda items would be addressed at 4:30 P.M., with a Public Hearing to be held at 6:30 P.M. The Board Members received the draft minutes of the August 14, 2006 Planning Board meeting. Minutes were approved by Board Member Peggy Rotton ; seconded by Board Member Bob Imobersteg. All in favor.

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**New York Pizza & Deli, Clinton Road, New Hartford, New York.** Conceptual Site Plan Review of a proposed pizzeria located at 85 Clinton Road, New Hartford, New York Tax Map #328.015-2-37; Lot Size: 0.22.; Zoning: RB4 Neighborhood Business. Mr. Nicholas Cavalier appeared before the Board.

Town Planner Schwenzfeier stated that Mr. Cavalier would like to open a 750 sf pizza shop, which was there at one time. Currently, a barber shop is at the site as well as NYSDOT's field office. There will be no changes to the site or building. This would need County 239 review, however, SEQR is not necessary as it is a Type 2 Action. Mr. Cavalier has submitted a letter from the owner, Kanthi Mani, granting him permission to appear. The owners of the property were not present.

The Board discussed ingress and egress at the site and Mr. Cavalier referred to his map. There are no defining curb cuts at this site. Discussion ensued regarding traffic circulation, and additional green space. Mr. Cavalier said he would like to place "A" frame signs in front and pave/stripe the area to direct parking. He would not mind defining some type of ingress and egress.

Board Member Donovan mentioned that portable signs are not allowed in the Town and Mr. Cavalier should contact the Codes Department before placing any signs on this site.

Motion was made by Board Member Bob Imobersteg to grant Conceptual Approval with the stipulation that the Town Planner, Mr. Cavalier and the owner define ingress/egress at this site and to encourage additional green space; seconded by Board Member Bob Wood. Vote taken:

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg - yes
Board Member Bob Wood – yes	Board Member Hans Arnold – yes
Board Member Rodger Reynolds – yes	Board Member Jerome Donovan - yes
Board Member Peggy Rotton – yes	

Motion was passed by a vote of 7 – 0.

Board Member Arnold stated that no matter what business is at this site, we would encourage the same type of questions about ingress/egress, green space, etc.

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**Mr. Larry Adler, New Hartford Office Park, Woods Highway, New Hartford, New York.** Final Site Plan Review of a proposed business park off of Woods Highway. Tax Map #328.000-3-7 and 316.000-2-41.1; Lot Size: approximately 115 Acres; Zoning: Planned Development Park. Mr. Larry Adler appeared before the Board.

Chairman Yagey referenced whether a Public Hearing was previously held at this site for this use and if this Board should entertain one at this time due to the number of projects that have occurred in this area since, i.e., COR/Lowe's, Consumer Square, Benderson, etc. It was determined Public Hearings were held Town-wide in the 1990's and one in 1999 for the proposed Business Park itself. Board Member Wood remembers this project and it is much smaller than previously submitted by the Town.

Board Member Donovan is concerned about the changes in this area with failing intersections unless mitigation is provided. He also referred to the Police Chief's comments regarding cumulative growth. Board Member Donovan asked if all the traffic concerns have been addressed as it relates to this project. Town Planner Schwenzfeier said it is like a 20-year projection and we don't have that, however, Phase I would not have a direct impact but on the build out it would make a big difference. Board Member Donovan also asked about mitigation on Route 5 to accommodate the traffic for Phase I,

light timing, realignment with Woods Highway – some type of intersection control. – Town Planner Schwenzfeier said there is no mitigation under Phase I for Route 5.

Mr. Adler addressed the Board stating that this project is costly and this Board has been aware of this proposal for many years from when the Town appeared for this type of project. The traffic report has been issued and is consistent with the Town's

Comprehensive Plan. He is seeking Final Approval for Phase I. He would not object to a Public Hearing for Phases 2 and 3 but was not aware of this concern now. Mr. Adler said he attended a meeting with NYSDOT, Highway Superintendent Cleveland and Councilman Reynolds. Any approvals given would be with NYSDOT and addressed.

Board Member Donovan asked if Mr. Adler had anything in writing from NYSDOT. Town Planner Schwenzfeier said this is in an Economic Development Zone, they will be looking for funds for fees in lieu of mitigation – the developer will have to pay for the improvements. Right now it is a joint venture.

Board Member Arnold referred to traffic as it relates to the two (2) developments before this Board. He wants to know if the two (2) developers would commit to all the improvements. If those improvements are made, we have an acceptable level of service. Is the portion of this traffic report that these two (2) developers are responsible implemented? Is there a resolution that states that the developers are held responsible and if so, he would like to see it. He doesn't want to go to a Public Hearing without that information. This development hinges coming out Woods Highway extension. He referred to the SEQR response that was completed in the 1990's and were they addressed adequately? Town Planner Schwenzfeier said as a phased development, yes. Board Member Arnold also asked if the Woods Highway extension is part of this development proposal? Town Planner Schwenzfeier said yes.

Chairman Yagey feels we may be approving a joint project with a road that we don't know who will be paying for it.

Mr. Adler expressed concern over the planning process. The Board explained that we don't want to put the Town at risk over any project. Mr. Adler said he wouldn't consider going after the Town if there is any problem.

Board Member Arnold referred back to the Woods Highway extension and that our approval can be helpful with NYSDOT to get them to address the part that is going to intersect with Route 840. Also, when that connection is made, it is going to make this a much better development. He also referred to the retention basin and a walkway capability, i.e., through the land to connect to Middle Settlement Road. Mr. Adler said he would be willing to look into this. Mention was also made to get in touch with BOCES and potentially put in a parking lot on the other side of the project. Mr. Adler is willing to work with the Planning Board, NYSDOT and Staff concerning this.

Board Member Arnold said the developer was asked to give us a summary of all those studies on this project, which he did. He is satisfied that the process works. The only contingency, he feels, that needs to be added to this is something acceptable to this Board

and the Town Board that if we are going to have this as a Town road, there is a commitment by the developer to build one of these access roads to Town standards. Chairman Yagey said the process was extensive and agrees with Board Member Arnold.

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

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg - yes
Board Member Bob Wood – yes	Board Member Hans Arnold – yes
Board Member Rodger Reynolds – yes	Board Member Jerome Donovan - yes
Board Member Peggy Rotton – yes	

Motion was passed by a vote of 7 – 0

Motion was made by Board Member Hans Arnold to grant Preliminary Approval for Phase I; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg - yes
Board Member Bob Wood – yes	Board Member Hans Arnold – yes
Board Member Rodger Reynolds – yes	Board Member Jerome Donovan - yes
Board Member Peggy Rotton – yes	

Motion was passed by a vote of 7 – 0

Motion was made by Board Member Hans Arnold to grant **Final Approval** to the New Hartford Business Park, Phase I, contingent upon the developer providing to the satisfaction of the appropriate Town officials an agreement for a future Town road connecting the east end of the property with either the existing Woods Highway or Woods Highway extension built according to Town specifications; and it include a provision for a walkway along this road or a location to be determined; and that this road be in place before any occupancy takes place; that the Pre-development Agreement and Memorandum of Understanding be completed; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Peggy Rotton. Vote taken:

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg - yes
Board Member Bob Wood – yes	Board Member Hans Arnold – yes
Board Member Rodger Reynolds – yes	Board Member Jerome Donovan - yes
Board Member Peggy Rotton – yes	

Motion was **passed** by a vote of 7 – 0.

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**Charles T. Sitrin Home, Tilden Avenue, New Hartford, New York - Skilled Nursing Facility.** Final Site Plan Review/Approval of proposed Nursing Home Residential Development. Close SEQR. Tax Map #340.000-2-21; Zoning: Planned Development Institutional. Mr. Richard Wilson, CEO, appeared before the Board.

Chairman Yagey explained that this application is at a Final Approval stage contingent upon certain criteria. This approval would allow them to proceed for funding and Certificates of Need. The Town Engineer would look at the storm water, and the Town Planner's concerns have been met.

Motion to grant **Final Approval** to the Sitrin's Skilled Nursing Facility was made by Board Member Jerome Donovan contingent upon NYSDEC's approval and permit; that the Town reviews and approves the storm water based on the Town's requirements before any application for a Building Permit, that a Building Permit be obtained within one (1) year of approval date (if Sitrin needs to extend this permit time frame, they would need to come back before the Planning Board); and that the Sitrin Home will not obtain a Certificate of Occupancy until the permitting agencies have signed off on the work completed (i.e., sanitary sewer, water mains, etc.); seconded by Board Member Peggy Rotton. Vote taken:

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg - yes
Board Member Bob Wood – yes	Board Member Hans Arnold – yes
Board Member Rodger Reynolds – yes	Board Member Jerome Donovan - yes
Board Member Peggy Rotton – yes	

Motion was **passed** by a vote of 7 – 0.

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**COR Development/Twin Orchards, Middle Settlement Road, New Hartford, New York.** Preliminary/Final Site Plan Review/Approval,; Close SEQR. Tax Map #316.000-2-41.1 & 42; Lot Size: approximately 21 acres; Zoning: Planned Development Mixed Use. Joseph Gerardi, Esq., Mr. Peter Giovenco, PE of Bergmann Associates, Ms. Amy Dake, PE, PTOE/SRF Associates; and Ms. Carlie Hanson, RA, LEED/QPK Design, appeared before the Board. Mr. Gerardi presented a sketch plan for this project for Board review.

Chairman Yagey referred to the possibility of extending the road coming off Middle Settlement and going back to Lowe's, then extending that road and making it a Town road to connect to Woods Highway – the question is to go through the orchard and Mr. Gerardi doesn't know if it's for sale. He feels they have completed everything we have asked them to do.

Town Planner Schwenzfeier was asked whether or not this was consistent with Clark Patterson traffic study. They responded by letter to the Town and improvements are consistent. Town Planner Schwenzfeier stated that he was notified late today that NYSDOT will require mitigation for Lowe's to determine what those improvements will be. They will require some adjustment to the traffic signal on Middle Settlement and Seneca Turnpike and Clinton Street/Middle Settlement intersection. He said these are OCDPW roads and the developer will have to satisfy them. The Town road will be a driveway so if they extend it, the road is in place. Clark Patterson feels there is a site distance issue on the west side of Middle Settlement Road.

Town Planner Schwenzfeier had submitted to each Board Member his comments and updates regarding this project, which have been made a part of the file.

Chairman Yagey stated that Clark Patterson is also asking to clear the right-of-way of vegetation on Middle Settlement Road to increase visibility. He addressed the extension of a roadway to Woods Highway in conjunction with the newly proposed Business Park.

Board Member Donovan referred to traffic and the levels of service to these roads, in particular, Kris Ann Drive, which is located at Parkview Estates. This is an aging population at this park, and site distance is a concern, but it is pre-existing. Ms. Dake stated that they looked at this area and don't see anything significant, there isn't any mitigation report, and it is not signaled. Discussion ensued regarding this road and any possible changes, i.e., speed reduction.

The Town Planner was asked to look into the speed reduction issue with the development of the COR project on behalf of the Planning Board

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

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg - yes
Board Member Bob Wood – yes	Board Member Hans Arnold – yes
Board Member Rodger Reynolds – yes	Board Member Jerome Donovan - yes
Board Member Peggy Rotton – yes	

Motion was passed by a vote of 7 – 0.

Board Member Arnold asked if we would extend the same condition for this road like what we did for the New Hartford Business Park – to build the road to Town standards, and also having the capability of a walking trail where the road is – the answer is yes. Board Member Arnold asked Mr. Gerardi if the grading issue was taken care of – Mr. Gerardi said yes – the grading will be off their property and with the current owner in

conjunction with the change of the driveway.

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

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg - yes
Board Member Bob Wood – yes	Board Member Hans Arnold – yes
Board Member Rodger Reynolds – yes	Board Member Jerome Donovan - yes
Board Member Peggy Rotton – yes	

Motion was passed by a vote of 7 – 0.

A conversation was held regarding ingress/egress, traffic study recommendations, mitigation, road extension, etc.

Motion was made by Board Member Rodger Reynolds to grant **Final Approval** to the Lowe's project with the condition that the road be built to Town specifications and to include a path/walkway; that mitigation be completed with NYSDOT prior to occupancy; that a Building Permit be obtained within one (1) year of approval date; and the signing of the Pre-development Agreement and Memorandum of Understanding; seconded by Board Member Hans Arnold. Vote taken:

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg - yes
Board Member Bob Wood – yes	Board Member Hans Arnold – yes
Board Member Rodger Reynolds – yes	Board Member Jerome Donovan - yes
Board Member Peggy Rotton – yes	

Motion was **passed** by a vote of 7 – 0.

Chairman Yagey referred to a Resolution to be filed with the Town Clerk regarding Final Approval of this project with conditions – he read this Resolution to the Board Members.

Motion was made by Board Member Hans Arnold to accept this Resolution to be sent to the Town Clerk; seconded by Board Member Bob Imobersteg. Vote taken:

Chairman Joseph Yagey – yes	Board Member Bob Imobersteg - yes
Board Member Bob Wood – yes	Board Member Hans Arnold – yes
Board Member Rodger Reynolds – yes	Board Member Jerome Donovan - yes
Board Member Peggy Rotton – yes	

Motion was passed by a vote of 7 – 0.

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**PUBLIC HEARING – 6:30 PM**

Dr. Frank DeLaus, 33-lot Major Subdivision on Higby Road for single-family homes. Tax Map #0340.000-2-1.2; Zoning: Lot Size: approximately 27 acres; Zoning: Low Density Residential. Mr. Donald Ehre, P.E., of Boulder Consultants, appeared before the Board. Board Member Jerome Donovan stated that he would be participating in the Public Hearing for this project, but would not vote as he lives in South Woods.

Chairman Yagey explained the procedures for a Public Hearing. At this time, Mr. Ehre appeared with a sketch of the project and location. He gave an overview of the project, including lot locations, access road, sewers, storm water, grading, hydrants, etc. He explained that access to this site will be from an extension of Thistle Court/Ironwood Road in the adjacent South Woods Subdivision. Another access will be provided at another time at Higby Woodlands. The lot on Higby Road has access by a private driveway. The project will be serviced by public water, sewer, etc. He further explained the storm water drainage/piping system. Mr. Ehre stated that plans have been reviewed by the Water Board, and the Health Department and found to be acceptable. Mr. Ehre commented on the agreement reached between Dr. DeLaus and Mr. Carucci for the sanitary sewers.

At this time, Chairman Yagey opened the Public Hearing:

-Dr. Bhisham Garg, 26 Ironwood Road. He is concerned about additional traffic, especially where the access road connects to the new development, which is adjacent to his home. He was told there wouldn't be a road behind his property and he built a three-stall garage. Dr. Garg feels this development would change the character of the area.

-Dr. Michael Kelberman, 37 Ironwood Road. South Woods is a busy development with a lot of traffic and speed. With the number of homes in that development and with the proposed project, he does not feel the road system is safe. Also, he is concerned on how long it would take to complete this project and worries about construction equipment going in and out and with only one (1) entrance, he feels it is a safety issue. He would also like to know when the rest of Higby Woodlands would be developed. He doesn't want to stop growth, but would like to see it done right.

-Mr. Harold Wheeler, 16 Silver Birch Court. He would like to see the entrance by Higby Road to alleviate the traffic inside this development and South Woods. He doesn't think it's a big problem to create that entrance. He understands Higby Road is a County road, but feels it is necessary to preserve what is there now.

-Mr. Tom Scatko, 362 Higby Road. With the latest approval of Jewel Ridge across the street, he feels there would be too much traffic. He stated that there is an accumulation of water in this area. He feels this Board should act on the problems that exist in this area now as storm water is a big concern.

-Gus DeTraglia, Esq., 12 Silver Birch Court. For the record, the property is in his wife's name. Also, he has been approached by Dr. DeLaus to do some legal work, but he doesn't know whether he will accept it or not. He is here as a resident. There is a storm water easement near his residence and the residence of Mr. Jerome Donovan. He referred to the problems with storm water and drainage in this area. He feels a closer look into this problem should be taken by the Town. Attorney DeTraglia referred to the Schumaker Engineering Report and drainage, and problems with open ditches (if proposed). He would like to see some buffering between the two (2) developments which would also help with drainage. Who will maintain the basin, i.e., sediment control? He would like to see the Town check into off site drainage. Further, he would like to see deed restrictions in place.

Mr. Ehre said he hasn't seen the deed restrictions. Attorney DeTraglia again urged the Town to get deed restrictions, i.e., house size, foundation drains, internal drains, buffering between the two (2) developments to help drainage, etc. He feels the storm water system needs attention. He also asked if a moratorium was in place – answer: no.

At this time, Chairman Yagey explained the moratorium issue and the GEIS study. Town Planner Schwenzfeier stated that this subdivision is not in a proposed GEIS area.

-Mr. Peter Acquaviva, 104 Viburnum Lane. He referred to the overcrowded conditions in the school system. With these new homes, it would add to the problem.

Chairman Yagey said that the School District is notified when a project gets approved. They have never come back to this Board stating that there is a problem.

-Mr. David Scharf, 43 Ironwood Road. He also has concerns about the school system and safety of the children. He would like to see an entrance off Higby Road, which he feels is more suitable to everyone. He does not want to see the construction trucks coming in and out, especially with the number of children living there. Mr. Scharf also wanted to know the planning process - Chairman Yagey explained.

-Mrs. Christina Scharf, 43 Ironwood Road. She wanted to know the process for notifying people as some of her neighbors did not receive a letter. Chairman Yagey explained the notification process and also that a Legal Notice is placed in the newspaper. She has been trying to get a Slow Children Playing sign. She was told to contact the

Police Chief for this request. Safety is her big concern, especially the children.

-Ms. Faga, 6 Ironwood Road. Concerned with roads not being able to accommodate the increased traffic, safety, high water table, and storm water.

-Ms. Angelina Skamas, 131 Valley View Road. She is concerned with increased truck traffic on Valley View Road, and about sewer and water problems as she has spent a lot of money correcting problems on her property.

-Mr. Richard Loe, 34 Ironwood Road. He would like to see the trees remain as it adds to the character of the area, a buffer zone between the two (2) developments. He would like to see an entrance from Higby Road. There are storm water problems in this area. Also, water pressure is a problem.

Town Planner Schwenzfeier stated that the Water Board responded and the level is high. He advised him to contact the Water Board if he continues to have problems.

-Mrs. Carol Seager, 34 Ironwood Road. She also has low water pressure. She also is concerned about the values of the homes.

Board Member Arnold mentioned that the Town has a body of regulations that apply to a lot, i.e., setbacks. We don't have square footage requirements for a house.

Mr. Ehre addressed the Board Members and public stating that the homes will be as large or slightly larger commensurate with the existing developments of South Woods and Higby Woodlands. They have worked out agreements with Mr. Carucci and part of that is with infrastructure. He would be happy to talk to Dr. DeLaus about a second entrance into the development and report back to this Board.

-Mr. Kevin Fee, 9 Ironwood Road. He would like to see the trees stay to help buffer the development.

-Mr. Jerome Donovan, 14 Silver Birch Court. He was approached in the beginning by Dr. DeLaus regarding an easement, but he got an easement elsewhere. Mr. Donovan addressed the following concerns:

- -He would like to retain a buffer between the developments. Once a developer sells the lots, they don't have anything to do with it again. That is why he feels a deed restriction is necessary. A buffer would be aesthetically pleasing and help noise abatement. He displayed a map of the area and referred to noise he hears from 800' away – he feels the buffer is needed.

- There was a question regarding presentation of the updated plan. Mr. Donovan proceeded with the plan as presented and his concerns.
- Water Table: ground water sets in this area behind most of the homes and water will be there 3-4 months a year. He is concerned about mosquitoes.
- Ingress/Egress to the site: A secondary entrance could be years away. Perhaps the Planning Board could have the developer work with Mr. Carucci to dedicate a Town road before Building Permits are issued. There is a way to alleviate heavy traffic concerns on Ironwood Road.
- Safety: Ironwood Road is not pedestrian friendly. There will be more cars coming in and out of the development. He referred to the Police Chief's previous comments on developments having one (1) entrance and one (1) exit and concerns for public safety.
- Sidewalks: The Town of New Hartford doesn't require developers to put in sidewalks. He referred to the construction on Chapman Road and new placement of sidewalks. Perhaps the Planning Board could require this developer to put in sidewalks. The Town could set up a sidewalk district. He explained the process for setting up a sidewalk district.
- Trash Pickup and items in the road: he brings this up because if this project gets approved and heavy equipment starts coming through, they will bring in dirt and stone. The Planning Board should require a catch basin to wash trucks down.

Mr. Donovan thanked the Board .

-Ms. Michele Volza, 237 Sylvan Way. She is concerned about a new road into her development and new lots when property hasn't sold near her in Higby Woodlands.

-Mr. David Scharf, 43 Ironwood Road. He would like to make a point to this Board that an entrance should be at Higby Road.

-Ms. Michele Philipson, 3 Viburnum Place. Who will enforce deed restrictions? She was advised that the Town does not enforce them. She was told it has to be done through the Homeowner's Association.

Planning Board Secretary Dory Shaw received two (2) letters from residents who could not be in attendance this evening (Board Members received a copy of each). They have been placed in the project file:

- Mr. Mark Cioni, 28 Ironwood Road
- Mr. Anthony Iannone, 29 Ironwood Road.

Chairman Yagey thanked everyone for their comments. The Public Hearing ended at 8:20 P.M.

Chairman Yagey felt that this Board was not ready to vote on this project tonight.

Board Member Reynolds has concerns regarding the issues presented on storm water. Board Member Rotton has environmental concerns, water issues, density, etc. Board Members Bob Imobersteg and Bob Wood feel that a Higby Road connection is a big issue, time frame for second entrance, future drainage easements, etc.

Board Member Arnold stated that this Board has reviewed this subdivision for over a year. He finds comments from the public helpful. He referred to when South Woods and Higby Woodlands was constructed. He feels the issue of Higby Road is important – a main entrance off Higby Road and the other two (2) at the time the development is built. Board Member Arnold would like to see the best development in the best fashion possible from the developer. He feels in terms of trade off with the wetland, crossing it to get a road to Higby Road has possibilities. The NYSDEC could be contacted regarding this. He would like the Town Planner to pursue this with NYSDEC to see where the regulated wetlands are.

Chairman Yagey said this Board will carefully review everyone's comments, especially traffic, safety, ingress/egress, storm water, etc. He would like to have a conversation with the developer and Town Planner Schwenzfeier and the consultant to make sure storm water issues are being addressed. Further review will take place with the developer. Chairman Yagey advised the public that they were welcome to attend the next meeting when we address this application again (at a date to be determined). They will be advised accordingly.

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There being no further business, the meeting adjourned at 8:45 P.M.

Respectfully submitted,

Dolores Shaw  
Planning Board Secretary

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