

John Currie, *Chairman*
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
Dennis McNamara
Bruce A. Prince
Christopher Zaberto

PLANNING BOARD

Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589
TEL (914) 277-5366
FAX (914) 277-4093

EMAIL:
PLANNINGBOARD@SOMERSNY.COM



SOMERS PLANNING BOARD MINUTES

May 8, 2019

ROLL:

PLANNING BOARD

MEMBERS PRESENT:

Chairman Currie, Mr. Zaberto, Mr. Prince, Mr. Goldenberg, Ms. Gerbino, Mr. McNamara and Ms. Gannon.

ABSENT:

Town Attorney, Joseph Eriole

ALSO PRESENT:

Director of Planning Syrette Dym,
Consulting Town Engineer Joseph Barbagallo
and Planning Board Secretary Barbara J. Sherry

The meeting commenced at 7:30pm. Planning Board Secretary Barbara J. Sherry called the roll and noted that the required quorum of four members was present in order to conduct the business of the Board.

XENIA STEPHENS SUBDIVIION: TM: 28.07-1-1

Chairman Currie stated this is the seventh (7th) 90-day time extension request of the Conditional Final Subdivision Approval and Stormwater Management and Erosion and Sediment Control Permit from June 11, 2019 up to and including September 9, 2019 in accordance with §150-13M of the Code of the Town of Somers. The property is located at the corner of Routes 100 & 138 and is in an R80 Zoning District.

Chairman Currie added the Board is in receipt from two (2) letters; one (1) from Director of Planning Dym and another from Bibbo Associates.

33 Chairman Currie asked Director of Planning Dym if she had any objections to the
34 granting of this request. Director of Planning Dym stated no.

35

36 Chairman Currie asked if there were any Board member comments.

37

38 Ms. Gerbino stated she wanted to remind everyone that historically this property
39 contains the barn that housed the original elephant circa 1815. She added the
40 elephant was bought in 1808 and she believes his demise was in 1815. Ms.
41 Gerbino noted how historic this property is and that the barn still exists.

42

43 Mr. Prince asked why this is taking almost two (2) years.

44

45 Director of Planning Dym stated according to the letter from Bibbo Associates,
46 Mrs. Stevens has hired a new surveyor for the final plat and they will proceed with
47 the filing as soon as it is signed by the Westchester County Health Department.

48

49 Mr. McNamara stated there was a change with the surveyor due to the passing of
50 the original surveyor.

51

52 On a motion by Chairman Currie, seconded by Ms. Gannon and unanimously
53 approved, the Board moved to grant the seventh (7th) 90-day time extension request
54 of the Conditional Final Subdivision Approval and Stormwater Management and
55 Erosion and Sediment Control Permit from June 11, 2019 up to and including
56 September 9, 2019 in accordance with §150-13M of the Code of the Town of
57 Somers. The property is located at the corner of Routes 100 and 138 and is in an
58 R80 Zoning District.

59

60 **NORTH COUNTY HOMES – CARDINAL WAY: TM: 16.17-2-7&4**

61

62 Mr. Joseph Festo, developer, approached the Board and stated he is in attendance
63 for the final resolution for Cardinal Way.

64

65 Chairman Currie stated he received a text message from Consulting Town
66 Engineer (CTE) Joseph Barbagallo stating he may be late but if the Board is so
67 inclined he has no problem with the few remaining items and to direct staff to do a
68 resolution, but first we have to do a Negative Declaration (Neg. Dec).

69

70 Director of Planning Dym stated the Negative Declaration is not prepared.

71

72 Chairman Currie stated that the Negative Declaration and Resolution can be done
73 at the next meeting. There are a few outstanding items and they may be cleaned up
74 by that time. According to CTE Barbagallo they are minor and he does not have a
75 problem with this.

76

77 Ms. Gerbino asked how many trees there are and when is it ok for the trees to
78 come down.

79

80 Mr. Festo stated there are thirty-seven (37) trees.

81

82 Director of Planning Dym stated when she prepares the Negative Declaration she
83 will look at the Environmental Assessment Form (EAF) to see what it says about
84 that.

85

86 Mr. McNamara asked if that is only when there is evidence of Bat inhabitation.

87

88 Director of Planning Dym stated yes, and that is why she has to look at the EAF
89 and that will be done in conjunction with the Negative Declaration.

90

91 Ms. Gerbino stated she is not pushing to save the bats, but is concerned about
92 when it applies and when it does not apply.

93

94 Director of Planning Dym stated when you do the EAF, the Environmental
95 Mapper, which is on the New York State Department of Environmental
96 Conservation (NYSDEC) SEQRA website, it comes up with items that identifies
97 that there is a potential for rare and endangered species.

98

99 Ms. Gerbino stated so they do it.

100

101 Director of Planning Dym stated that is the one thing that always, if it is subject to
102 that, comes up from NYS DEC on the Environmental Mapper and then we can
103 check out what exactly it is. Typically in this area it is the Northern Eared Bats.

104

105 Ms. Gerbino stated she knew the background, she was just curious, she does not
106 want to impede their progress.

107

108 Director of Planning Dym stated there is a period of March to October when the
109 trees can be removed.

110

111 Chairman Currie added there was a project on Route 6 and they had to clear the
112 trees during that time also.

113

114 Ms. Gerbino asked if this impacts homeowners also, if she were to call a local tree
115 company to have some trees removed.

116

117 Director of Planning Dym stated it would not affect that, as they are not subject to
118 the SEQRA process.

119

120 Mr. Zaberto stated the Site Plan for the tree removal was unclear as to whether
121 certain species were to be removed and then replanted. One of the committees in
122 Town has asked for clarification. If you cannot clarify now that is understandable,
123 however they recommend that if you do plant replacement trees from what you
124 have cut, that they be native to the area and not something imported from another
125 country or another part of the United States. They would like to keep the
126 indigenous species native to the area.

127

128 Chairman Currie asked Director of Planning Dym for assistance about waiving of
129 the Public Hearing.

130

131 Director of Planning Dym stated the section of the subdivision law that allows this,
132 does not allow or require a Public Hearing for the Final Subdivision Approval. It
133 states, if it is less than six (6) months from the Approval of the Preliminary
134 Approval, the Code says there shall be no Public Hearing.

135

136 She added there are a couple of things that were put into a memo and Mr. Jack
137 Karrell, PE, should know what to do; fix the Zoning Table and the one thing the
138 Board should take a look at is a lot of the conifers along the boundary line that are
139 going to be removed, a large portion of that boundary line is actually between the
140 property line and the applicants own property, but some of them are between the
141 property and the neighbor's property. The Board should determine whether or not
142 the applicant needs to replace some of those between the proposed development
143 and the neighboring property. This is something the Board should make a decision
144 on.

145

146 Chairman Currie asked Mr. Festo if he has any plans about the trees.

147

148 Mr. Festo stated he believes that the ones by his neighbor's property line may be
149 staying and some along his property line may be removed, where the property line
150 comes up and joins his neighbors.

151 Director of Planning Dym stated that is not the case looking at the plan.

152

153 Mr. Festo replied he will look at it, and if they can leave them, he will.

154

155 Director of Planning Dym stated if you do not leave them, is the question.

156

157 Mr. Festo stated that is fine, then we will replace them.

158

159 Director of Planning Dym stated that will be placed in the resolution.

160

161 Mr. Zaberto added with native trees.

162

163 Chairman Currie stated the conifers should be replaced with the same conifers.

164

165 Ms. Gannon stated, CTE Barbagallo's memo is expressly saying item number 4F
166 talks about existing trees, it says the applicant provide a survey of the existing site
167 with tree locations and the applicant shall clearly identify which trees are to be
168 protected during construction.

169

170 Ms. Gannon opined that, that would include trees on the boundary of the property
171 as it is all part of the site that is being destructed, so the applicant has no choice but
172 to comply with the memo.

173

174 Director of Planning Dym stated that will have to be added to the resolution.

175

176 Ms. Gannon added it is identified in, as well as an absolute direction by CTE
177 Barbagallo,

178

179 Mr. McNamara stated normally the trees that are being preserved are flagged.

180

181 Chairman Currie asked if there were any other Board member comments.

182

183 There were none.

184

185 On a motion by Mr. McNamara, seconded by Ms. Gannon and unanimously
186 approved, the Board moved to direct Director of Planning Dym to prepare the
187 Negative Declaration and the Final Resolution for the June 12, 2019 Planning
188 Board Meeting.

189

190

191 **HERITAGE HILLS SOCIETY: TM: 17.06-10-16**

192

193 Mr. Richard Williams, Insite Engineers approached the Board and introduced Mr.
194 John Milligan from Heritage Management.

195

196 Engineer Williams stated he wanted to speak to the Board about the various
197 Heritage entities that exist and who is actually the applicant on this project for
198 clarity.

199

200 Engineer Williams specified that Heritage Society is the overall Homeowners
201 Association (HOA) for the Heritage Hills development. Each Condo within
202 Heritage Hills has their own HOA. Separate from Heritage Hills is Heritage
203 Management (HM). HM is a private company, and Mr. John Milligan from HM is
204 here this evening. They are the property managers that oversee the management
205 and maintenance of the Heritage Hills development. Separate from these entities
206 is the Heritage Hills Water and Sewer Corp.

207

208 Engineer Williams explained to the Board that he wanted to make this distinction,
209 they are not the Water and Sewer Corp. The applicant on this project is Heritage
210 Hills Society, which is the overall HOA for Heritage Hills.

211

212 Ms. Gannon stated she is resident of Heritage Hills and a member of the Society
213 and pays dues to the sewage corporation. My Condo is not proximate to the site of
214 this applicant, so I do not perceive myself as having a conflict with the application.

215

216 Mr. Bruce Prince stated he has to recuse himself from this application as he is both
217 Vice President of the Society Board and is also head of the Stormwater
218 Management Committee and is versed on this project and has been involved with
219 the planning of it.

220

221 Engineer Williams began with where the project is. On the aerial map displayed,
222 he pointed out the vicinity of the Heritage Hills Development, the Somers Hamlet,
223 Route 100 & 202, the IBM Property, and the existing Somers Towne Center prior
224 to DeCicco's, Heritage Hills Drive, the pond by Imperial Wok and the Sewer
225 Treatment Plant. Just north of that is the main recreational facility for Heritage
226 Hills. Just south of that is the intersection of Heritage Hill Drive, which runs North
227 and South and West Hills Drive which runs to the west. The project is in from the
228 intersection from Heritage Hills Drive on West Hill Drive.

229

230 On the next drawing Engineer Williams explained to the Board, is an enlargement
231 of the intersection, he pointed out Heritage Hills Drive, the curve line of West Hill
232 Drive which runs to the west and just to the west of Heritage Hills Drive is the
233 pond, and the outlet structure of the pond is a concrete wall that has a spillway.
234 Water flows over the spillway into a natural streambed which is then conveyed
235 under West Hill Drive via an existing culvert with an inlet and outlet where the
236 water continues down the stream.

237

238 Engineer Williams continued saying the culvert construction is a CMP arch
239 culvert, which means there are concrete footings that stick about one (1) foot above
240 the natural stream bed and then there is a corrugated metal arch. The way the arch
241 is constructed is with bolted panels, going from the left footing to the right footing.
242 There are generally five (5) panels, two (2) on the left side of the arch, a center
243 panel and two (2) on the right side of the arch and they are all bolted together.
244 That is done throughout the length of the culvert with overlapping panels.

245

246 Mr. Zaberto asked if it is corrugated metal.

247

248 Engineer Williams replied yes.

249

250 Engineer Williams continued, stating as part of the on-going maintenance and
251 preservation it was noted there was deterioration and disintegration of a section on
252 the inlet side of the CMP arch culvert and part of the corrugated metal actually
253 broke away. On the other side, also on the inlet but on the western side, you can
254 see the corrugated metal pushing in a roll due to the soil loads behind it. This is
255 the condition that needs to be repaired. We reached out to Contec, the
256 manufacturer of the culvert, their experts came out and recommended replacing
257 nine (9) panels in the inlet side. On this plan the water is hi-lighted in blue, the
258 culvert itself is yellow and then the panels that need replacing are in orange.

259

260 Engineer Williams stated the way this work will be done is an excavator will be
261 along West Hill Drive out of the road, over into the side of the culvert. They will
262 then remove the soil over the culvert, and replace the nine (9) panels and then
263 reinforce and re-stabilize the inlet of the culvert.

264

265 Engineer Williams explained what lead to the deterioration is the drainage on West
266 Hill Drive which has two (2) curb cuts where the Stormwater comes through the
267 curb cuts and flows overland into the stream. The way it was designed it came in
268 right alongside the edge of the culvert and has been leading to chronic erosion. A
269 swale will be created to divert the water away from the culvert and farther uphill

270 where there is a little bit more pretreatment then currently exists. We are also
271 going to re-stabilize the slopes with rip rap so they do not continue to erode. On
272 the very inlet side of the culvert where you can see the stream flow; via the blue
273 arrows; from the top of the page to the bottom of the page, you can see the culvert
274 is not directly in line with the stream flow, so we are also going to use three (3)
275 foot boulders to help armor that angle so that the water does not beat against the
276 side of the culvert and funnel the water into the culvert better and also to help
277 minimize future erosion.

278

279 Engineer Williams stated in order to accommodate this, we are going to sand bag
280 the spillway inside the twenty four inch (24") pipe that will run from the spillway,
281 straight through the work zone and into the existing culvert. That way the normal
282 stream flow can continue and leave our work zone dry. There will also be a small
283 de-watering pump – it is not realistic to assume there is not going to be any
284 seepage or wet area within the stream bed, so this will keep the work zone dry.
285 That will be pumped through the culvert and on the downstream side into what is
286 called a “Dirt Bag”.

287

288 Engineer Williams explained that these “Dirt Bags” are used on a lot of Golf
289 Courses to dredge irrigation ponds. Basically, it is a big bag that fills up and has
290 very small openings that traps all the sediment inside and at the same time lets the
291 water out. The bags require maintenance and when they are filled to a certain
292 amount they need to be replaced. He added this is one of CTE Barbagallo’s
293 comments and this is how we will keep the work site dry.

294

295 As far as equipment, within the stream bed there is not going to be any, the
296 excavator will be uphill of the culvert and on dry ground. The only people going
297 into the stream bed are the workers who are going to unbolt and rebolt the new
298 pails. That allows them to be proactive in the event of rain. There are concrete
299 footings that are one foot (1’) tall, in the event of large rain fall. The sand bags can
300 always be removed, let the water flow down the course – again removing the
301 panels is not going to affect the stream flow because of the concrete footings still
302 funneling the water. So a contingency is in place if it comes up, however the work
303 period is anticipated to only be two (2) weeks.

304

305 Chairman Currie asked what percentage of the culverts you are replacing and is
306 there a time frame on these and why not replace all of them now.

307

308 Engineer Williams stated to replace all of the panels now, is another cost in scope,
309 the road and curbs would have to be removed and excavate out a lot of material. A

310 logistic plan would need to be developed so the work can be done in lanes, so that
311 one lane can be kept open and the cost would be exponentially more.

312 Chairman Currie asked if it is just a matter of time before the other panels also go.
313

314 Engineer Williams stated everything has a life cycle, at this point in time there is
315 still life left in the remainder of the culvert.
316

317 Ms. Gannon asked based on what inspection told you that. A camera?
318

319 Engineer Williams stated the culvert is eight (8) feet tall, so it was a visual
320 inspection.
321

322 Chairman Currie stated he believes that the water is going to get put back up
323 further north so it is going to be treated more than it is.
324

325 Ms. Gerbino stated when you talk about pretreatment you are collecting debris and
326 particles, correct?
327

328 Engineer Williams stated road salt & sands.
329

330 Ms. Gerbino asked more then what currently exists. So what currently exists is
331 going where? Into the wetlands?
332

333 Engineer Williams stated right now, from the curb cuts we have ongoing erosion.
334

335 Mrs. Gerbino asked if you have erosion, then that erosion gets further forced down
336 the stream into the wetlands.
337

338 Mr. McNamara stated silt.
339

340 Ms. Gerbino stated otherwise known as silt, then does this impact the sewer plant.
341

342 Engineer Williams stated he does not know how you make this connection. The
343 sewer plant discharges into a stream.
344

345 Ms. Gerbino stated she knows where the stream is, and stated the sewer plant is
346 next to a wetlands and so this is feeding into that wetlands.
347

348 Engineer Williams stated the volume of water we are talking about from the road
349 and the amount of soil loss you are talking about a strip that is ten (10) feet long,

350 four (4) feet wide and not very deep. It is not enough to actually cause any
351 downstream large flooding.

352 Ms. Gerbino stated that what you are doing is a benefit to the wetlands and
353 therefore a benefit for the Town.

354

355 Mr. Zaberto asked if the pump will only be operating during the construction
356 phase, meaning the time that there are workers in there, or is there a potential it
357 could be running 24 hours to keep it dry.

358

359 Mr. Williams stated it will only be running when there is onsite work going on.

360

361 Mr. Zaberto added once work ceases for the day, the pump will be shut off, but if
362 you get some water in the area, will that require you to have it on during night time
363 hours.

364

365 Engineer Williams stated not at this phase.

366 Mr. Zaberto asked if the pump is gasoline driven.

367

368 Engineer Williams stated it will most likely be a trash pump connected to a
369 generator.

370

371 Mr. John Milligan, Project Manager for Heritage Hills Society approached the
372 Board and stated he wanted to expand a little more, relative to the question of the
373 structural integrity of the rest of the culvert. They had engineers from Contec, the
374 manufacturers of the original culvert, along with Eric from Insite and several other
375 people walk the length of the culvert inside and based on that visual there does not
376 seem to be any issues with the structural integrity of the rest of the culvert.

377

378 Mr. Mulligan continued saying it is important to realize that what has happened is
379 not really a consequence of corrosion but of erosion. There is no corrosion visible
380 in the rest of the culvert, it is a confluence of erosion from the stream bed up and
381 from the curb cuts down that has led to the displacement of the panels.

382

383 Ms. Gannon asked if one of the underlining causes is the flow of water and how it
384 enters the curb cut and asked if you are leaving the curb cuts.

385

386 Engineer Williams stated the curb cuts will remain but will be stabilized with rip
387 rap to create a safer conveyance going down. He added in addition to the rip rap
388 they are going to create a cut-off swale to prevent it from entering the inlet of the
389 culvert.

390 Ms. Gannon asked what was the original design intent of the curb cuts that put
391 them there in the first place.

392

393 Engineer Williams stated to let the water flow down the slope and into the stream.

394

395 Ms. Gannon asked if that was originally the plan.

396

397 Engineer Williams stated he has not gone back and done a record search but that is
398 how it has been as far as he knows.

399

400 Mr. Mulligan stated basically there is a low point in the road at that location and
401 water accumulates into a two (2) to three (3) inch deep puddle. There is no
402 velocity there so it just lets the puddle drain off into that culvert. Now with the
403 new design the water will be redirected and it is intended to remove the water that
404 accumulates in that area. The grades do not lend themselves to a catch basin and
405 tying into another catch basin.

406

407 Mr. McNamara stated it could also be soil settlement over the past thirty (30)
408 years.

409

410 Engineer Williams informed the Board that in addition to their approval, they
411 already have a New York State Department of Environmental Conservation
412 (NYSDEC) Freshwater Permit for this work and the other entity that will have
413 jurisdiction is the Army Corps. Of Engineers. That process is a two-step process
414 and we have already reached out to them. It has been confirmed that we qualify for
415 the "Nationwide 3", that is their permit. The way it works is we submit our pre-
416 application, it goes out for a thirty (30) day comment period, which we are
417 currently in, as we have made that submission. At the end of the 30 days a forty-
418 five (45) day clock starts where the Army Corp of Engineers can ask for additional
419 information and if they do not offer any comments after the forty-five days, the
420 permit is issued. We are not expecting any objections for the Army Corp so we are
421 just sitting and waiting for the time to expire.

422

423 Ms. Gannon asked Town Consulting Engineer (CTE) Barbagallo about the NYS
424 DEC's permit where it references the plans as we have them here dated February
425 15, 2019 and it seems to say that is the plan that you shall comply with, later on it
426 does reference that it could be amended by the department, but we are not that
427 department. How do you reckon that the NYS DEC has not signed off on these
428 plans and you are giving the applicant direction that could result in an amendment
429 to these plans?

430 CTE Barbagallo stated they likely will.

431

432 Ms. Gannon asked how does that work together in a procedural level.

433

434 CTE Barbagallo stated he presumes that at the time the NYSDEC is ready to issue
435 their permit, that Engineer Williams will have updated the plans to the current set
436 of plans to make certain.

437

438 Engineer Williams stated they already have their permit.

439

440 CTE Barbagallo stated, what will happen if these plans change is Engineer
441 Williams will have to go back and get an amendment.

442

443 Engineer Williams stated as they wind down the process with the Planning Board,
444 which we have a comfort level as to when we are getting near the end of the
445 comments working with CTE Barbagallo's office, they will submit that set to
446 NYSDEC simultaneously and say we have been working with the Town on the
447 local wetland permit, these are the latest amendments, can we amend our permit to
448 the latest changes.

449

450 CTE Barbagallo stated in the end the permit will be issued with our plans.

451

452 Engineer Williams stated he would like to go over some procedural items. He
453 believes that this is a Type II Action and would like to confirm this with the Board
454 as that would make them exempt from SEQRA and they would not need to take
455 any further action, and then they would like to schedule the Public Hearing.

456

457 CTE Barbagallo stated per their memo they have some concerns with a stability
458 issue at the side slopes the one and one half (1 & ½).

459

460 Engineer Williams stated it was graded to 2 and 1, so it was just changing the
461 detail.

462

463 CTE Barbagallo stated okay and that he would like to verify the rip rap sizing, as
464 there seems to be some discrepancies on the plans where in one instance we are
465 talking about the three (3) foot boulders protecting the footing and it is not shown
466 on the other side. He asked why the boulders are shown on one side and not the
467 other.

468

469 Engineer Williams stated yes, it has to do with the fact that this culvert does not
470 align directly with the stream flow, we want to armor the side that is going to be
471 most impacted by the flow lines.

472

473 CTE Barbagallo stated they will have to look at that item to ensure the scour
474 footing will ultimately be protected, on both sides as well.

475

476 CTE Barbagallo continued, adding that traffic is something that needs to be looked
477 at and how it will be managed; construction sequencing – where is the staging and
478 where the materials are going. We are really on the threshold of the limited
479 disturbance and I want to make certain all the items are covered, as there is only
480 one hundred (100) square feet to work with and my sense is that you will be over
481 that, but we will see how that goes. My final item was going to be around the
482 limited disturbance, lines will have to be drawn and we will have to make sure we
483 are comfortable with that and that is the true limited disturbance. There are other
484 detail comments but these are the bigger comments.

485

486 Ms. Gerbino stated she saw that it could go over the five thousand (5,000) square
487 feet, which made her think of something else. We as a Town benefit from what is
488 going on here, and asked if this is a “B” or “A” stream, as it is a perennial fresh
489 water stream.

490

491 CTE Barbagallo stated he did not know.

492

493 Mr. Prince stated it was a “3”.

494

495 Engineer Williams stated it is either “A” “B” “C” and that he would have to check.

496

497 Mr. Prince stated a Class “C” Trout Stream.

498

499 Ms. Gerbino stated she has concerns that have to do with the Town Board. She
500 stated that whatever could be done by the Town Board to apply for Federal
501 Revenue Sharing funds, because the Town benefits broadly by anything that is
502 done in Heritage Hills. Federal Revenue Sharing are tax monies that come from
503 everybody and I think it is in order that applications be made that could be applied
504 to the Society.

505

506 CTE Barbagallo stated the challenge with that is it is difficult to get public funding
507 applied to private lands. I understand your comments about the benefits to the

508 Town, but ultimately these are private lands. He continued saying that does not
509 mean I do not think there are opportunities for Federal Revenue Sharing.

510

511 Discussion ensued regarding Federal Revenue Sharing, Lake Shenorock and Lake
512 Lincolndale.

513

514 CTE Barbagallo added there are opportunities for us to look at this project and
515 understand if there is potential for Phosphorous Reduction and that maybe the East
516 of Hudson (EOH) could be approached, as they are not spending the money in the
517 Non-FAD (Filtration Avoidance Determination) basins as they have. In thinking
518 of this project and in talking about the inlets, CTE Barbagallo opined there is a
519 decent opportunity to do a Phosphorous Retro fit project as part of this, especially
520 using the by-pass swale. But this would really start with knowing if the applicant
521 is interested in this.

522

523 Engineer Williams stated, let's start with time, as of today, the ideal time to do this
524 work is in the summer, to secure an approval from this Board which using the most
525 aggressive schedule as possible, we come back next meeting for a public hearing
526 and a resolution – that would be June – we have to coordinate with NYSDEC, line
527 up a contractor, submit site plans for signature which will take a week or two. As
528 of right now with the most aggressive schedule this will start us in June or July,
529 which puts us right in the middle of summer. The longer we wait and any other
530 items we might add in, although benefitting in other ways would cost us in time
531 and I would have to speak to the Society about that.

532

533 Mr. Zaberto asked where the stream ultimately ends up, in a wetland area,
534 obviously south of that.

535

536 Engineer Williams responded yes.

537

538 Mr. Zaberto asked if it flows into any other body of water that is accessible to
539 Town residents.

540

541 CTE Barbagallo asked if it is the same stream that ultimately flows into Fireman's
542 Field.

543

544 Chairman Currie stated yes, adding then ultimately into Boniello's property.

545

546 CTE Barbagallo stated, although he did not specifically comment on sediment
547 control during construction, that is obviously most important, but he believes they

548 have a solid plan. This is an item they have to keep a very close eye on during
549 construction.

550
551 Engineer Williams stated some of the things they went through was that plan, we
552 also talked a bit about construction and what the plan was. The main recreation
553 facility is just north of the project site and the workers will park there, no machines
554 will be located within the stream, the only excavator will be sited adjacent to the
555 roadway, trucks will be staged temporarily for material delivery, such as rip rap or
556 the stone. This is not uncommon in Heritage Hills as there is maintenance going
557 on all the time, between catch basins, masons, pipe replacements and pavement.
558 This is a three (3) way stop which helps control the traffic and there will be
559 workers there as well.

560
561 Ms. Gannon asked if the “Dirt Bag” as you described is an ongoing sediment
562 catching condition, or is it just for this project during construction.

563
564 Engineer Williams stated it is a temporary condition for construction to control if
565 they have to do any de-watering in the area as opposed to putting in a trash pump
566 to suck the silt and sediment, it is to control that.

567
568 Ms. Gannon asked so that is just temporary, then the debris you take out, what do
569 you do with it.

570
571 Engineer Williams responded usually they will break the bag and get the sediment,
572 our intent is to relocate it to another area. Engineer Williams pointed out on the
573 map where the silt would be relocated to. The goal is not to import fill but to reuse
574 whatever material they have.

575
576 CTE Barbagallo added they have to be careful that the quality of the fill isn't
577 highly erodible and if it is, just make sure it is at depth.

578
579 CTE Barbagallo stated going back to the question of funding; there would be an
580 opportunity here given the impervious surface, the timing would not require us to
581 apply for a grant and that would further benefit the Town, it would provide some
582 money, but you would have to speak to the Society about that and it might add a
583 month to your schedule.

584
585 Ms. Gerbino added she also meant this for any future projects they have, because
586 anything on that hill that is improved benefits the Town.

587

588 CTE Barbagallo stated if there is willingness on the part of the Society, Engineer
589 Williams and I can do a site walk and maybe identify some areas and we can look
590 for some areas to do retrofit projects and we can partner with Heritage to approach
591 the EOH. Right now the money being spent outside of the FAD basins, which we
592 are in, has be curbed back a little bit.

593

594 Engineer Williams stated Heritage has a head of the Stormwater Committee and he
595 would have to be consulted with.

596

597 Mr. Prince asked if the Society, which is obviously going to pay for this project at
598 a significant cost, could funding come after the fact.

599

600 CTE Barbagallo stated yes, but it depends on if this project could account for any
601 phosphorus lowering. Adding he was speaking about potentially modifying this
602 project in a way that we can put some elements in meaning the water that we were
603 going to pick up in that swale is probably treatable. So what I was talking about
604 was a modification to this plan to make sure we are getting phosphorus, but as far
605 as this plan goes there may still be an opportunity because of the bank erosion.
606 After a brief dialogue with Engineer Williams it was decided there is not enough
607 phosphorus for this project.

608

609 Ms. Gannon stated the whole of the West Hill, the other side of West Hill, its
610 terminal point is Warren Street which is not Heritage property and there is a drain
611 there.

612

613 Mr. Prince stated that is only part of the West Hill, the rest of the property goes
614 down into the other side of the hill.

615

616 Ms. Gannon stated that one portion there is a huge slope that comes down, but does
617 not know if there anything there at that drainage point.

618

619 CTE Barbagallo stated he does not know what is going on with the road that was in
620 the back, but there is definitely opportunity in the maintenance area to do
621 something for Stormwater. If the Society wanted to do something, we could
622 identify a project like that and we could talk to EOH about its fundability and
623 depending upon the amount of phosphorous that we would get we could possibly
624 get money going in for something like that.

625 Ms. Gerbino stated she just wanted to alert that anything going on in Heritage Hills
626 the Town benefits from that.

627

628 CTE Barbagallo added from many perspectives, but absolutely from a Stormwater
629 perspective.

630

631 Mr. Goldenberg asked about the Brownsfield Program and if something like that
632 could be done on this project.

633

634 CTE Barbagallo stated, that money is associated with the cleanup of contamination
635 and not for the protection of the reservoir. That program of tax relief is for private
636 developers taking on the liability of past landowners and agreeing to clean it up
637 and if the developer does that, the state will allow them to deduct that investment.

638

639 Mr. Goldenberg asked if the Society would fall under that category as a private
640 developer.

641

642 CTE Barbagallo stated luckily this is not a contaminated site. He added for this
643 project we can expedite, move as quickly as possible and hope to get them on
644 schedule. As far as money we will look in the future for other monies to do that.

645

646 Chairman Currie asked if the Board was ok with scheduling a Public hearing at the
647 June 12, 2019 meeting.

648

649 All responded yes.

650

651 Engineer Williams asked if it was premature to go to a resolution in the event they
652 can address these comments.

653

654 CTE Barbagallo stated they could probably have a resolution ready. He would
655 want to make certain everyone is working closely because this is pretty critical and
656 that everyone is on the same page. He can move forward on a resolution for the
657 Board's potential action on after the Public Hearing depending upon input and
658 status of the plan.

659

660 On a motion by Chairman Currie, seconded by Mr. Zaberto, and unanimously
661 approved, the Board moved to schedule the Public Hearing for June 12, 2019.

662

663 Chairman Currie stated prior to the meeting Mr. Prince had brought up some
664 interesting comments and would like to spend some time on his concerns and good
665 points.

666

667 Mr. Prince stated he has some serious concerns with regard to development
668 projects in the Town of Somers and when possible, he thinks the Planning Board,
669 with their expertise and its related consultants be involved as much as possible in
670 making those decision. I know there are certain situations where the Town Board
671 has to, because of codes and by-laws, be Lead Agency, but I think it is important
672 that the Planning Board consider, or make a motion or desire to being as included
673 as possible on all the major developments in this town. Not just small
674 developments but of the major developments that take place.

675

676 CTE Barbagallo asked when you refer to developments, it makes me think of
677 private sector activity in town, are you talking about all construction projects, for
678 example the Town is going to be pursuing the construction of the sewers in
679 Lincolndale and Shenorock, is that the kind of projects you are referring to.

680

681 Mr. Prince stated no, I am referring more to the DeCicco's and the Boniello
682 developments and the potential for the Academy up on the IBM site. I know
683 because of the needed zoning change the Town Board will have to be the Lead
684 Agency. I think the Planning Board needs to be right behind the Town Board with
685 regard to the expertise on deciding what a viable project is and how it should work.

686

687 CTE Barbagallo stated he agreed with Mr. Prince on the matter of the expertise
688 needed, a lot of the projects he mentions this Board is having a roll.

689

690 Mr. Prince stated he is not saying the Planning Board has been eliminated, but
691 there are certain projects that this Board has had less input than others.
692 Knowing I am new on the Board, there are certain projects we have had less input
693 or our input has come by the request of the Town Board.

694

695 CTE Barbagallo stated there are also many instances similar to the DeCicco's and
696 the Boniello developments that are going on where the Town Board is Lead
697 Agency. By going through SEQRA and granting approvals, the Planning Board
698 issues Site Plans, but it is on how we are doing the site in the plan and not if we are
699 doing the site plan.

700

701 CTE Barbagallo asked Mr. Prince if his comments were more that you want this
702 Board to have has much input as possible in the "if" scenario not the "how"
703 scenario, although this Board will always have it on the "how" scenario but do you
704 want more on the "if" scenario.

705

706 Mr. Prince stated he thinks someone mentioned the word “shall” before with
707 regard to certain segments of the Zoning Code or something. I believe we should
708 have more “shall’s” in here then “what does the Town Planning Board think of
709 this” Our involvement should not be at the discretion of whether the Town Board
710 wants us to make a comment or not, we should be involved.

711
712 Mr. Zaberto asked what would prevent us from, in an instance where jurisdiction is
713 handed over to the Town Board to move the project forward, and to take public
714 comment and hearings. Why couldn’t we operate as a committee like some of the
715 other committee’s in Town, have a representative at the Town Board meeting to
716 take in the information that is being shared so that we can get it back to the Board,
717 be notified of when it is on the Town Board Agenda so that we can stay informed
718 on this.

719
720 Mr. Zaberto stated he believes that is what Mr. Prince is alluding to, that this Board
721 is not always up to date on the progress.

722
723 CTE Barbagallo stated Mr. Zaberto’s statement clarifies what the Board is looking
724 for.

725
726 Mr. Zaberto stated once the SEQRA responsibilities go to the Town Board and it is
727 off our agenda we do not hear anything about the project. As Board members and
728 Town residents, we still have an interest in the project and would like to be able to
729 afford information.

730
731 CTE Barbagallo stated you may not see it show up on a Town Board Agenda, so
732 you may not know to watch the television or video.

733
734 Mr. Zaberto stated to open a channel of communication, adding his previous time
735 on committees he felt like that happened a lot where there was an issue of
736 communicating between Boards and Committees. We all have a common goal
737 here and in this case we want to ensure that the developments and projects benefit
738 as many people as possible, that they are handled under the auspices of the laws
739 and we should know or at least be briefed. We should have someone at a Town
740 meeting or another Board meeting where it has been transferred to, so that we can
741 follow through the project, especially if it started here.

742
743 CTE Barbagallo stated what you are suggesting is obviously good government, all
744 the brains of the government are working together for the betterment of that entity.
745 Neither I, nor Director of Planning Dym are at every one of those decisions, so I

746 am wondering if the Board should, in a certain way, on specific applications,
747 maybe there is a protocol. What you are saying makes a lot of sense, but I do not
748 have the ability to drive that.

749

750 Mr. Prince, you do not have the infrastructure concept.

751

752 Ms. Gerbino stated she has a suggestion that will help. She stated that Mr. Prince -
753 as a new member learned that under certain circumstances the Town Board has to
754 be the Lead Agency, if there is a change in the Zoning the Town Board must be
755 Lead Agency. I would agree that at times I am critical of the Town Board when
756 they did not do things as Lead Agency or did things that we did not know anything
757 about.

758

759 She continued stated her puzzlement when the Town Board declares itself Lead
760 Agency a letter goes to all the agencies, so they know, and they must respond and
761 say we acknowledge the Town Board as Lead Agency and some of those agencies
762 will remind the Town Board of certain obligations. As an example of her
763 puzzlement, on May 2, 2019 the Town Board declared itself Lead Agency on
764 creating a sewer district for Lincolndale. She, as an Interested Agency, did not get
765 a letter, the Planning Board should have received a letter just like all the other
766 agencies. She does not understand why the Planning Board does not get a letter
767 like everyone else.

768

769 Director of Planning Dym stated she would have to look at the distribution list and
770 is fairly certain the Planning Board is on there. She continued saying the only
771 people that get the cover letter, are the "Involved Agencies", those Agencies that
772 are required to issue a permit, but in this case the Planning Board is an "Interested
773 Agency" so you are informed.

774

775 Ms. Gerbino opined that this should be on our Agenda so that we can collectively
776 respond.

777

778 Discussion ensued on this matter and Director of Planning Dym stated if you
779 would like, on items that the Planning Board is an Interested Agency for them to
780 show up as an item for discussion.

781

782 Ms. Gerbino stated, she has an item, the school.

783 Mr. Prince clarified the Academy.

784

785 CTE Barbagallo stated, there this Board is an "Involved Agency".

786 Ms. Gerbino stated it should have been on our agenda and some of us could have
787 contributed things that we know that the Town Board was not aware of.

788 Director of Planning Dym responded, you were invited, there were meetings way
789 up front that the Planning Board was invited to and contributed to all the issues.

790 Ms. Gerbino agreed and added she just wished the formal part just does not exist.

791

792 Mr. Zaberto asked, as the newest member on the Board, he has several memos
793 from other Boards and Committees regarding projects that we are responsible for,
794 where questions are asked and clarifications are requested, which tells me that they
795 are discussing these items, assumably because that project was on their agenda to
796 be discussed. Could we establish that once jurisdiction is transferred to another
797 Board or agency, when those decisions come up, can we discuss it as a Board, or
798 does that not fall under the purview of the Planning Board to do and to give a
799 recommendation?

800

801 CTE Barbagallo stated, when you get a memo from the Open Space Committee (as
802 an example) this Board is referring those projects to the Open Space Committee.

803 That is the mechanism that triggered it on their agenda. When the Town Board
804 refers something to this Board, it automatically shows back up on an Agenda.

805 What is not happening is, when the Planning Board is an interested or involved
806 Agency in another agencies approval, should we be carrying something on the end
807 of the agenda just let's check in on all these things.

808

809 Director of Planning Dym stated we can certainly add them as items of discussion
810 and the Code identifies very specifically some of the referrals. She added the
811 applications that come into the Planning Office, she is responsible for saying where
812 they go and who gets them. Some of them are defined by the Code; some of the
813 categories and zones define where things have to be referred to, particularly the
814 Open Space Committee. When it is a Town Board referral they are required, such
815 as a zone change, they are required to refer it to the Planning Board. The Town
816 Board is required to ask for your opinion on Zone changes, so you have to get that.

817

818 Ms. Gannon added sometimes the Board will be silent and sometimes we will ask
819 the Town Board a question and they will be silent. The dialogue is not always a
820 discussion or input, sometimes it is assent by not responding or having a
821 conflicting opinion. Another thing you are mentioning is comments received from
822 other Boards. Often what will happen when an application comes up, the
823 Chairman will say since the last meeting we have received this input and will
824 provide a general synopsis of that memo and that acknowledges it for the record.
825 We do try to track and memorialize the fact that it has been received for the record.

826 Chairman Currie stated he believes what may have started this was for the
827 Planning Board to have more input in the beginning of the process, even if we are
828 not the Lead Agency. In order to do that we will have to be privileged to all the
829 information that has been received from the applicant.

830

831 CTE Barbagallo added there is, in 2019 technology and systems that could make
832 that easy. Then of course there is just picking up the phone.

833

834 Ms. Gannon stated the only caveat to that is to have a central mechanism where
835 comments are shared among people from Boards, but you cannot have off line
836 discussions. So maybe if you could subscribe to a platform, using the Planning
837 Board as an example, get an announcement of the meeting and the agenda with the
838 appended documentation.

839

840 Chairman Currie stated it could still be handled at a public meeting in a public
841 forum. Further discussion ensued among the Board.

842

843 Mr. Zaberto stated a temporary solution could be just to be notified what the Town
844 Board has on their Agenda, so that someone can go to that meeting, as a town
845 resident and hear what is being discussed as a project so that this Board can stay
846 abreast of things.

847

848 Director of Planning Dym stated she has communications with the Supervisor's
849 Executive Assistant about things that need to go on the Town Board Agenda. In
850 addition she can ask her to inform them about anything that may be of interest to
851 the Planning Board and therefore it would be up to the Planning Office to get this
852 information to the Board.

853

854 Mr. Prince stated, we have established that there are cracks in the process, I would
855 like to recommend (if it is doable) that a committee that would look at and come
856 up with a basic infrastructure system, which would then be the mechanism for all
857 this intercommunications. That needs to be done in a more professional manner
858 than we can do at this table. It might take some meetings with people from
859 different agencies to talk about how we set up a structure and once established then
860 this communication could link into it much more easily.

861 Ms. Gannon stated, unless the goal is to get the information in advance of the
862 publication of the Agenda, if the Agenda packet, that has the appended information
863 that is being included now under the Open Meetings Law. As a Land Use Law
864 researcher, we go to the municipality's websites to get a sense of what is going on.
865 That is the best and richest immediate data for information. The Town Board

866 Work Session always precedes our meeting, if there was something of note, maybe
867 someone could advise us of a decision at the Work Session. But the next regular
868 Town Board Meeting is the day after our meeting. After further discussion Ms.
869 Gannon suggested someone retrieve the Town Board Agenda with its attached
870 back up documentation.

871
872 CTE Barbagallo stated the Board could either formally write a letter to the Town
873 Board requesting all Town Board Meeting Agendas, once finalize, be circulated
874 directly to the Planning Board along with the materials you have to go to the web
875 site.

876
877 Ms. Gerbino added that sometimes they are posted and sometimes they are not, as I
878 already use the site to get that information.


879
880 CTE Barbagallo stated the second request might come in the form of a request for
881 a coordination meeting with the Town Board to look for process improvements for
882 inter-agency coordination. This is what I am hearing, and you might want to issue
883 a memorandum in that sense to the Town Board or, the Chairman could have a
884 conversation with the Supervisor about this.

885
886 Director of Planning Dym asked the Board if they wanted her to write a memo or
887 have the Chairman have a discussion with the Supervisor about this.

888
889 After a brief discussion, it was agreed that Director of Planning Dym will compose
890 a memo to the Supervisor and Chairman Currie will meet with the Supervisor.

891
892 Chairman Currie stated the next meeting of the Planning Board will be June 12,
893 2019 at 7:30pm.

894
895 On a motion by Chairman Currie, seconded by Ms. Gannon and unanimously
896 carried, the Board move to adjourn the meeting at 8:45pm.

897
898 Respectfully submitted,
899 
900 Barbara J. Sherry
901 Planning Board Secretary
902

903
904
905