

MINUTES of the Village of Montgomery Planning Board meeting held in the Conference Room of the Village Hall, Clinton Street, on Wednesday, March 28, 2018, at 7:30 pm.

ATTENDANCE: Chrm. Conero, Mbr. Weeden (not in attendance), Mbr. Crowley, Mbr. Steed, Mbr. Romano, Atty. Kevin Dowd, Eng. Dawn Kalisky of Lanc & Tully, Maria Beltrametti, Walt Lindner, Maryanne Lindner, Amy Haight of Chazen, Tim McElduff of Drake & Loeb, Thomas Olley of Thomas Olley Engineering, Jay Samuelson of Engineering Properties, Todd Zwigard, Amanda Spadaro, Robert Wiggins, Jim Pillmeier, Jane Hoeffner, Ed Magryta

OPEN: Chrm. Conero opened the meeting with the Pledge of Allegiance.

RE: NEW BUSINESS

RE: CITY WINERY HUDSON VALLEY 204-1-1

Jay Samuelson gives an overview of what is being planned. They are proposing a winery and event space. He would like to convert the historic mill into a winery, conversion into event/wedding space; utilize all the buildings on the property. They have to amend or change the zoning and eventually will be back to Planning for site plan review; either PDD because it is RM1 zone, or change to B1. The only improvements for the site will be a new parking lot and vineyards (for juice or sparkling wine), and platforms/gazebos for weddings or musicians. They intend to only be open Friday, Saturday and Sunday. There will be a full kitchen for catered events, no restaurant.

Todd Zwigard, architect for the project said they may employ 10-15 employees, more (employees) for catered events. Mr. Samuelson said they can accommodate up to 350 people for events. It is on just over 20 acres. Several renovated buildings will be for overnight guests. Mr. Zwigard said may propose a connector building between the hotel and main building for year-round use. They are still looking into seeing if all the buildings are historically designated like the mill. He would like to remove the boiler facilities and expose the chimney to a courtyard. And possibly bring in a distillery partner. The waterfall is gorgeous, maybe have a bridge to the island for pictures. He has many ideas. The winery is key and barrel storage will be on the lower level.

Atty. Dowd said the applicant will be responsible for the maintenance of the dam since it is part of the property. Mr. Samuelson said the applicant intends to continue utilizing it (the dam) for power.

PUBLIC HEARING

RE: LOOSESTRIFE FIELDS PHASE II 204-1-2.22

A MOTION was made to OPEN THE PUBLIC HEARING by Mbr. Romano and seconded by Mbr. Steed and carried 4 Ayes 0 Nays.

Atty. Dowd asked Ms. Murphy if the mailing receipts were obtained. She replied yes.

The Chrm. asked Ms. Haight to present what the public hearing was about.

Amy Haight is with the Chazen Company, representing the Loosestrife project. It was initially approved in 1996. It was a two-phase project, this is the 2nd phase of the project. Initially, in the late 90's there was a building constructed on phase 2 here and here (indicates on site plan) on the other side of this parking lot and a foundation was installed here and then all work stopped. They resubmitted it in 2016 for an amended site plan approval. We are proposing 4 new buildings in the area (indicates on site plan). Initially they had submitted it with 42 units, now they are down to 38. When they initially submitted it, there was a large amount of disturbance in the wetlands (indicates on site plan) and a large grading....Now, our proposal includes installing a bridge to cross the wetlands, so we are not proposing any wetland disturbance and we are containing everything on the site. Previously, they would've needed a grading easement from the town and we would've needed a parking easement for parking on this portion of phase I of the site (indicates on site plan). Everything is contained; we have the required amount of parking. We have adequate water and sewer. Does anyone have any questions?

The Chrm. said they understand what this is about. He says they have a letter from Lanc & Tully dated March 26th. There's 8 or 9 items on there that need to be addressed. Ms. Kalisky stated there are more than 8 or 9. Atty. Dowd asked if there was anyone there for the public hearing to make comments.

The Chrm. opened the meeting for public comment.

Chris Sharpe – Chief of Montgomery Fire Department – has a few questions. He said for emergencies down there, there is tight quarters for at least two pieces of apparatus. In the event of a fire, especially on the lower end, which was the last piece that went on, it's very tight for our apparatus to make its way in there. So, in the event of a fire, on our initial call for a fire, we have at least 6 pieces coming in. We have an additional ladder truck and two other engines including our 3 pieces.

Chrm. Conero asked, that's coming into the existing roadway? Mr. Sharpe said that's coming into the existing place, so now, already we're at operation where we're just stacking like on a city street in a one way so it makes it difficult if we have an operation where we need 2 ladder trucks in operation it's going to make very tight quarters if not impossible. The other question I have, I see that this is where the fire lane is, I'd like to see if the measurements equal out on both sides of this.

Chrm. Conero asked if he received anything from us on that, he said he did and he was trying to find it tonight but the office is a mess and he's just taking over so...Chrm. Conero said they did turning radiuses in there and there was a pretty extensive report put together on that. He said ok. As to whether...(inaudible). This has been a concern of ours; getting the size of your truck in and out of that spot. Mr. Sharpe said that was the issue they were coming to because our largest is going to be the ladder truck and our heaviest is going to be our tanker (our 2nd new piece). The largest on length is the ladder truck at 42ft. The weight on the ladder truck is 68,600 lbs. Our tanker, which is our heaviest piece, and that's just ours, and I don't know what Coldenhams is, our tanker is 71,000 lbs at 35 1/2 feet. Ms. Haight said they could run the turning radius with their largest piece. Mr. Sharpe said that would be fine. What is the weight on the bridge? She said they require that it hold 70,000. He asked if they would be at least 20ft wide on that. She said, yes with a foot on either side. Mr. Sharpe asked, no walkway on either side of this? She said no. She has a set of plans for him. He said he'd like another set, if he could. Chrm. Conero said he'd like for the fire department to look that over. Mr. Sharpe said if this is going to be our only turnaround here (indicates on site plan), in the event of a fire, on this backside here, I don't know where you're putting your hydrant system to carry through on this. Ms. Haight indicates on site plan where the

hydrants will be. Mr. Sharpe says in the event of a fire in here we're going to bring a truck or engine in on the backside here, and then we're going to be backfilling here. I'd hate to park a piece of apparatus on bridge. That's going to be our issue. She asks how many? He said on the initial alarm they have 3 coming out of our fire house, 3 more coming and God forbid it goes to a second...she said you need room for 3? He said that's just a given, we'll have 6 on the first alarm. She asked we can stack 6 on the side? He said it's going to be a long run, that's 100 ft. It will be nice to have room to play and I understand that we don't but I'd like to see if we can border something out here (indicates on site plan), shorten a building or put something on the backside, here. And I know you have a parking issue; I don't know if I'd recommend having this be parking all the time, but I understand you're going to have a parking issue. Chrm. Conero asked him to expand on the concerns he has about entering the complex with apparatus. It's tight coming here on this turn. Right now it goes to a dead end; this one actually comes in through here and...Chrm. Conero asked, when you come down that road, you're going to make a right into the complex. Is there enough turning radius? Mr. Sharpe said, I'd have to see on the plan to see what the distance is to the first parking lot. Ms. Haight said you'd be coming this way, and there's a dirt path there now. This foundation was installed and at some point they subbed out the water/sewer-it didn't work there so it's fairly level. Mr. Sharpe asked, none of this is wetlands, here? What is this here for? Ms. Haight said that is a retaining wall for grading. He asked, this is going to be up? She replied, yes, the retaining wall would be the low side of the other side...Mr. Sharpe suggested, if we only have one turn around here, I'd like to see if we could...Ms. Kalisky suggested a modification on Mill Place would allow for it. It's not their property, its two separate properties. On the other side of that retaining wall which is on the property line is village property, parkland. Mr. Sharpe said those are his concerns. Everything will be squeezed to a head here. Ms. Kalisky asked if they could jot down their equipment and weight. Ms. Murphy made copies. That is his only concern. They're looking at a hydrant on either side. Ms. Haight said they could...there is a hydrant right here (indicates). Ms. Kalisky has an old site plan she can show him. Ms. Haight gives him a set of plans. Atty. Dowd asked her what the weight limit of the bridge was, 70,000? Ms. Haight said they told them they needed at least 70,000. She believed fire code required it, that's how they came up with that number. Mr. Sharpe said resting weight, when a firetruck is in operation it has a vibration, it doesn't matter how new or how old it is, he's thinking of that steady vibration while it sits on the bridge while it's operating. It could pose an issue. Ms. Kalisky said they've been discussing the bridge, it's not something that can just be handled by the Building Inspector after site plan approval. It needs to be designed, the actual construction, the foundation is right up against the wetlands, Army Corps is actually coming out and doing another site inspection. We'll see what the wetland line is, how much it's actually grown since 1993; they never get smaller. The actual foundation of the bridge and ensure that they can handle the heavy equipment (inaudible)...get over it but you're not going to be able to stay on it. Emergency services on that side are difficult. Mr. Sharpe said as they are looking to operate they have to figure a minimum of 6ft on each side of the apparatus to operate because of hoses coming out and dropping of certain pieces of apparatus. Ms. Kalisky said that's why you need the 20ft width. Mr. Sharpe said it would be nice if we had that within bumper-to-bumper-to-parking lot within the driveway piece. It's nicer to have a bigger playing ground, so to speak. Ms. Kalisky said to Ms. Haight, you may want to inquire with Tower Loosestrife Fields LLC, even though it's a different LLC but the same basic group, to modify the intersection of Mill Place and Patchett, on their property to see if there's an additional area for turnaround. Ms. Haight said ok. Ms. Kalisky said she understands what Chris is saying that, on the 3rd sheet of the plan set, where you come in Patchett Way into Mill Place; he said it does look like a wide intersection. Mr. Sharpe said the turnaround needs at least 350ft, he is unsure of the code for backing up. He said if this is my only fire lane, I'd like to find something on the backside. Chrm. Conero said we clearly have a fire issue here that has to be cleared up before anyone can take a vote on this. Atty. Dowd we have a number of issues. Ms. Haight said there is a storm water method issue that DEC has to look into.

Chrm. Conero said we have reduced the size of this to accommodate certain things; I'm looking for some solution for the fire department on it. This way we don't have a situation where this is a health and safety concern. Ms. Haight said absolutely. Ms. Kalisky asked what number the tanker truck was; 223 and that is a work force? Or horse? ...inaudible. Ms. Haight asked if they had a make/model that they can get the specs for the turning radius. Mr. Sharpe said we can try to get them. It is a custom truck. They can get it from the board of commissioners-they might have a breakdown. Ms. Haight said they can use it to show what works or figure out what doesn't. Mr. Sharpe said it works for him. I'm looking out, not just for the public, but also my firemen. Ms. Haight said she understood.

Chrm. Conero asked if there were any other questions. He asked if they should leave the public hearing open. The Atty. suggested they leave it open. There are a lot of issues here, hearing back from the fire department regarding doing calculations to see what they can do, we also know we have a 60 day wait for the DEC, the army corps coming out, we have a number of issues, the clock starts running here we close the public hearing...why don't we keep it open to get feedback from the fire department. Ms. Haight said they are still trying to meet with the DEC and that the 60 day window hasn't started yet. We're still trying to settle on...Atty. Dowd said go another month to see if we can resolve the fire issues and see where that will go. Ms. Haight said they may not be back next month. She'd like to get everything settled with the DEC; at least get the 60 day window rolling. Atty. Dowd said we'll keep the public hearing open and if you're not going to be here because you don't have the answers, we can adjourn it for another month, if it's okay with you. She said that will be fine.

Ms. Kalisky said regarding the bridge; the condition of Patchett way, the roads are in horrible condition. Ms. Haight asked if it was a village road or private. Ms. Kalisky said private it's right at the end where Mills turns down. Mr. Sharpe said it's just after you cross the tracks. Ms. Kalisky said its Loosestrife development. Atty. Dowd said isn't it still your owner? Ms. Haight said the other owner...lol Ms. Kalisky said you will be utilizing the easement as we discussed on that and along with that easement, maintenance of the road shows concern on the maintenance of a bridge of that magnitude. If the roads aren't being maintained, what's going to guarantee the maintenance of that bridge? So the bridge, there's a lot of issues that really need to be done with that. Ms. Haight said okay.

A MOTION was made to ADJOURN THE PUBLIC HEARING TO APRIL 25, 2018, AT 7:30PM by Chrm. Conero and seconded by Mbr. Romano and carried 4 Ayes 0 Nays.

PUBLIC HEARING

RE: DUNN ROAD 213-3-4.22

Chrm. Conero stated that this is a site plan amendment.

A MOTION was made to OPEN THE PUBLIC HEARING at 8:03pm by Mbr. Crowley and seconded by Mbr. Steed and carried 4 Ayes 0 Nays.

Tim McElduff of Drake/Loeb, Attorney, and Thomas Olley, Engineer, are both representing the applicant. Mr. McElduff said this is an amended site plan application. The original application obtained site plan approval in August of 2016. Between August 2016 and the construction of the building there was some miscommunications between the prior professional and that were here in front of the planning board and the owner and the building was constructed 9 feet higher than the

minutes of the site plan approval provided. When our prior professional was here, there was representation made at the first half of the public hearing that the building would be 22ft and at the 2nd half of the public hearing representation was made 23ft. And it was approved that evening unanimously by the board. The issues that were raised during the public hearing that were addressed by the applicant, the size of the building was shrunk at one point to allow for no need for setbacks, I believe, and screening so there was an agreement that there'd be certain screening on the building to accommodate the area. This on the corner of Dunn Road and 211 right next to the airport. Between the site plan approval and the actual construction, the building was constructed at one point to 32ft and not 23ft and another end of the building is at 23ft. Other than that, this building conforms with the existing zoning, the existing law, including the height of the building which is in a zone that allows it to 35ft. In addition to the site plan approval, the building plans were approved and then when the height issue came up there was a stop work order issued. At the time, during the construction, our client also got FAA approval for up to 32ft, so long as he installs certain lights on the building. There was an issue last time about the impact of those lights and what they would look like. We submitted the product specs and they demonstrate that they are very low impact. Our client is also willing to mitigate any issue with the height, as far as screening with putting in different trees than what was originally discussed. Lanc & Tully noted in their letter, that the trees that were on the original site plan approval wouldn't grow to the height. They won't screen the entire building. And as you know, from our last discussion, even now in the winter if you go and visit this site, the natural screening is pretty thick and you can't see the properties next door. But our client will install whatever screening is required.

Mr. Olley said even though they filed this for an amended site plan application, we are not proposing any changes to the site plan. Of course, if there is something that the Board feels would mitigate any issues that you may identify, we will revise the plan and incorporate them. In our submission package, one of the plans that we submitted was an overlay plan that showed the original building and what was actually constructed. The lighter gray building is the building that was presented at the public hearing and other meetings in 2016. The darker lines are the building that actually got constructed. As we talked about the presentation to the Board last month, we feel that the confusion that evolved was that this plan which is a full size copy of the plan of the building that was submitted in 2016 was submitted on a reduced size drawing and when scaled it appeared to be 22-23ft. But when you actually scaled the length of the building and the width of the building it actually would have scaled to be a higher building as illustrated here (indicates). So, the other issue that probably led to the miscommunications; at one point this building was being considered as a steel frame pre-engineered building which would have had a lower roof-pitch. It would have still had a 20ft eave line but the pitch necessary for the 70ft width of the building, would've been about 3ft higher. I'm not sure that the other professional realized that he was presenting a plan for a wood frame building that would've had the higher pitched roof. As Tim stated, in November, the applicant filed with the FAA once he became aware of the requirement due to the building height and the possible intrusion into the transitional air space that in fairly rapid timing, he got the paperwork filed and on December 19th, the FAA made the determination that the obstruction lighting would be required at the eastern end of the ridge. The Chrm. asked how many lights. Mr. Olley replied, two lights as typical with the obstruction lighting, they are in pairs. It's a dual light but not a dual mode (which would be flashing). It is a steady red. I counted the other night, that there are 18 obstruction lights along 211 and Dunn Road and the only difference is that they would be LED instead of incandescent that were installed previously. He indicates on the plan where they would be. The transition plane goes up on an angle and I can't remember which one is which but one of these has a 3ft intrusion into that transitional space and the other one has a 7ft intrusion into the transitional space. But the FAA's determination is that while it may intrude on that space and requires the obstruction lighting, it's not a hazard to air navigation. Chrm. Conero asked if there was a letter from the FAA on the first

plan. Mr. Olley said no. Chrm. Conero said so this was a letter after the building was built? Mr. Olley said that is correct. I kept the plan over here, on the side, just to show the zoning map. Tim and I were not here at the time; we believe that the confusion was that this trapezoidal area (indicates on map) actually did not go over onto the subject property and it went under the radar and no one realized it at the time. At some point after Stewart Airport started serving commercial air traffic, Orange County Airport was upgraded; received ILS (instrument landing system) on this particular runway which changed these dimensions and that's why...the Town of Montgomery map is in the same situation. That's how we got here. The applicant, in November, once he became aware, did put into motion the necessary steps to get that aeronautical study completed by FAA and get a determination. The building does meet the village's zoning requirements and the FAA has made a determination that it's not a hazard to the navigation but does require obstruction lighting in two locations.

Atty. Dowd asked if we had received anything on the new plan from County Planning or SHPO. Ms. Murphy replied nothing yet.

Chrm. Conero asked if anyone on the Board had questions. He has opened up the meeting to the public.

Edward Magryta – Director of Orange County Airport - I have late information. Orange County Planning did weigh in on Orange County. They faxed the document in late around 5:30-6:00. I do have one copy to provide. Atty. Dowd said you received it? Mr. Magryta said yes. They faxed it here-they told him they faxed it to the Village. (Ms. Murphy checked the fax machine and makes copies.) Mr. Magryta said the County airport is concerned about the building height. The County airport became concerned when the building was constructed. Before that, the applicant visited with me in my office to discuss the project and mentioned to me that, I don't have exact recollection but I'm going to give you what I understood, that the building height was going to be either 23 or 28ft, is what was conveyed to me. When that information was conveyed to me, it seemed to me that that was a reasonable height for where I knew the building essentially was going to go. I did remind the applicant, and I mentioned to him, are you in compliance with all the federal filings and all the federal requirements for FAA airspace. I believe the applicant either said yes, or I will be. We left it at that. My next step is to wait for a comment card from the FAA on a new construction. It's typical that they will alert all of the impacted parties to respond. I never did get a comment card so I forgot about the project and then the building started to be constructed. Initially, it was dutiful work until we saw the height. When the building height came up it, it alarmed me because it didn't seem like it was in the 20 range. I had the County's airport's engineers speak with, I believe, I'm not sure it was Mr. Olley with the latitude/longitude information, but somebody gave my engineers the exact corners of the building in latitude and longitude to plot onto an airspace matrix that they have and that matrix determined that there were parts of the 7 transitional space penetrations at both peaks, one was a 3ft penetration and the other was 6ft penetration which corresponded with my concerns when the building went up. So, the applicant came to my office to talk about this and I, at that point, asked the applicant if he filed a 7460 FAA observation study. He said he didn't have to because of the trees that were behind the building, because they were higher than the height of the building. I reminded the applicant that those trees are not considered fixed objects. If there was a hill or some other fixed object behind the building that was higher than the roof, then that would be considered something that would waive his necessity to file. After that, I believe the applicant dutifully went over, I'm assuming to the engineer to file the paperwork for the 7460 study. The problem is that the 7460 is designed to be filed prior to construction not after construction. Typically, the FAA, when they get a filing that says existing structure they're not going to force an owner to lower a building or remove a building or move a building that was built well before these regulations came to fore.

Case in point, there's a home around the corner from there that has a penetration. That eventually could be a candidate for a light. The FAA will not come back and tell that homeowner you've got to cut that chimney off, it's too high. But on new construction, typically, it's my understanding that the FAA will actually render a height level. But they won't do that for an existing structure because of the undue burden to the owner of having to respond to a very difficult request. So, unfortunately the progression of these events, if the 7460 had been filed prior to construction, we probably would have alleviated a lot of this miscommunication height levels and so on. But that didn't happen it was filed after the fact. So typically, the FAA can't verify whether the building existed or not, they're going to go face value with what's filed and in that case the filing stated it's was an existing structure. That's why the response came as far as lighting is concerned. I can't state whether or not the FAA would say lighting or say, it has to be "X high," it's not really my purview to know, but I do know that they specifically want to know whether the building exists or whether it's new and they're not necessarily going to have the same answer for that inquiry.

Mr. Olley said he wanted to put something on the record. When Mr. Zafir submitted the original form to the FAA, on or about the 8th or 9th of November, he submitted hard copies of everything. That form indicated that it was new construction. Subsequent to that, on November 15th, he received an email from Doug Felix at the FAA who requested he file electronically and discussed with him, and the subject of his email was: FAA aeronautical study electronic filing e-filing information for a building under construction located north, northeast of Orange County Airport in Montgomery, NY. In that email he refers to a conversation/discussion that the two of them had, Mr. Zafir and Mr. Felix, the building is existing, at that point it was erected. It's no longer a proposed building because it is there, it actually occupies that air space. FAA determined that it was to be considered an existing building and Mr. Felix instructed the applicant on the electronic filing to indicate that it was an existing building. Atty. Dowd asked if that was in the correspondence where the FAA told him to file as an existing building. Mr. Olley produces a copy of the email that goes through and gives him the instructions on filing and tells him that it quite clear in the subject that it was a building under construction so there is no confusion about that on Mr. Felix's part. Ms. Murphy makes copies. There was no miscommunication as to the status of the building between Mr. Zafir and Mr. Felix and then subsequent to that, on December 19th, well on the 16th of November, I spoke personally with Mr. Felix and explained to him that, yes, the building was under construction, it is erected out there, to confirm that we were to deal with it as an existing building. And then, again on the 19th of December I received a phone call from Darren Clipper, who is with the FAA, a technician with the FAA, and one of the questions was how did we get to this point, he was wondering why we were examining a new building as existing; I explained to him the whole time line of what happened and later that day, that evening, they issued their determination. So, with all of that, we had a good series of communications with the FAA, they totally understand the circumstances and it's unfortunate that we're here because of some miscommunications on the height, it's unfortunate that the FAA form wasn't filed in advance of the construction like it would normally be, but nonetheless, the FAA has made the determination whether it was post or preconstruction they made a determination on that. That's all I wanted to add to the record on the FAA. Atty. Dowd said for the record, if you read the County Planning Department letter, they find that the proposed structure violates the air space and has the potential to negatively impact the navigable airspace therefore it recommends disapproval of the amended special exception use permit and site plan and says you cannot override that except with a supermajority vote. But what's not in this letter, is any reference to the FAA letter. Mr. McElduff said he noticed that there was no reference to the County's prior review of the original site plan location, and I believe, if I heard Mr. Magryta correctly, it's not Orange County's purview but the FAA's purview on this issue. And the FAA's letter cites the exact same encroachment's that the county has raised. Atty. Dowd said this letter puts the Planning Board in

a position where they would be going against a disapproval but yet the disapproval doesn't appear to indicate that they are even aware of or considered the fact that the federal agency sees this and gave an approval with the condition of the lights. If you discussed this with anyone on Planning but I'm curious why it's out of the letter. Mr. Magryta said he did not discuss any details...the Planning Department asked me for the engineering and the paperwork and the substantiation of the engineer's assessment. I will add though, that I also spoke with Mr. Clipper because I was very surprised by the FAA's determination when the determination was provided publicly and I asked Mr. Clipper about how that determination was decided on, and he mentioned to me that when they originally got the filing they were looking at the GIS because they couldn't find the building and they were not understanding; I guess they called the applicant, is what I understand, to find out if the physical building is there because on the GIS it wasn't showing the structure. So I asked Mr. Clipper, how does this determination get made when the 7460 should have been filed prior to construction. How does the FAA prevent gaming of the system by ignoring filing, not to say it's on purpose but if someone doesn't file a 7460 and builds a building then files a 7460, doesn't that defeat the purpose of the study in the first place. Mr. Clipper said that is true but it's up to the local zoning and planning boards to enforce these actions; the FAA does not have a police force to be able to enforce determinations. It's really up to the local authorities to determine what is suitable and not. Mr. Olley said he will add that Mr. Clipper asked him, looking at Google Earth Image or whatever GIS image they had available to them, that it wasn't showing and that's where I gave him the whole timeline of how we got to where we are. Yes, he did ask that question. We submitted to Tina the whole package of everything we submitted to the Planning Board so I'm sure they had it, whether they looked at it is another story. Atty. Dowd confirmed with Ms. Murphy that they entire package including the FAA letter. She said everything we got, they got. Atty. Dowd said he would clear that up with the Planning Department; I don't know why they would ignore that letter from the FAA to come up with a decision that says we disapprove. I understand the disapproval but it fails to even mention the FAA letter. Mr. McElduff says the letter misstates the square footage of the building and it refers to a special use exception which is not applicable to this property but may have been checked off on the original short form they had.

Walt Lindner – In addition to the discrepancy between the heights, the original plan showed it to be a single roof line. To me it seems odd that the lower part is the part that looks to be in the flight pattern. Mr. Olley said he can look up to see what the two intrusions are; because there is two different papers in the controlled air space. One is the glide path 50:1, so for every 50 feet on the runway it rises 1 foot. And then, in the case of an instrument landing system, that width is 1000ft wide and then it tapers up 500ft on either side of the center line of the runway, so it's rising up in this direction and then from that 1000ft it's also then tapering up at a different slope so what we have is a taper that's going through the easterly end of the building so the, had we known, we probably could've kicked the building over 20ft and avoided it; we would've been underneath that. Mr. Lindner said going back to the original drawing, whether it was 23ft or 26ft it showed one roof line. Later on it became a two-tiered roof. From what I recall correctly, when we met a couple of weeks back and we talked about the original drawing, the county was saying the original filing was stating that there was an existing building and that was long before construction even started. Atty. Dowd said the building went up really fast. Mr. Magryta said in a whole two days. Atty. Dowd said it was too high and that's not what the plan showed, and that's what triggered all the filings. Mr. Magryta said half of the pilots at the airport were shocked; when they drove by and saw that structure was that high that close to the approach surface! Again, with the naked eye you can't use that as a decider but certainly that was the initial reaction. I was expecting to get the public comment from the FAA after the applicant stopped by and talked with me 6 months before the project started. The fact that that didn't happen caught me

off guard because the building just went up and I'm thinking it's the 23 or 28ft that I was under the impression, and then it wasn't. It was a lot higher.

Chrm. Conero asked if anyone else had questions.

Mr. McElduff asked if the pilots were concerned about the approach coming in. I don't know the airport...Mr. Magryta said yes it's the approach coming in. Mr. McElduff said that property is surrounded by trees that are much higher...Chrm. Conero said you have to take into consideration that we have a letter from the FAA that says that building is okay whether it was existing or not existing. The Planning Board is not here to litigate the validity of the letter from the FAA. It either is or it's not and then the county comes up with something that says something different. But the height of the building was changed from the original plan but we also know that we need lights on both sides now, so there's a difference there. I'd like to entertain any other comments that might be out there.

Jim Pillmeier – 272 Union Street – We have concerns about the possibility of other miscommunications. They were told that it is a plastics factory and there would be no chemicals or fumes in the air. This is probably not even your department but we were told that there would be one truck a week and it would be quiet. We just want to make sure there are no miscommunications where other facets are concerned. Mr. McElduff said there are no changes at all. The plastic lining that he uses for his totes is fabricated somewhere else it's literally a machine that puts something together and trucks it away, like an assembly line.

Robert Wiggins – 272 Union Street – one of the property owners adjoining it. What is the necessity for this extra space (he points to the larger side of the building)? Mr. Olley said this portion of the building is the storage of the raw materials and finished products. It is palletized storage. It's standard warehouse height. This portion (indicates) is the assembly portion of the building. Mr. Wiggins said, it's the original height. Mr. Olley said, when you say the original height is about 24ft. Mr. Wiggins said if you make these decisions by yourself, what other decisions can you also break? In other words, the original called for dark brown siding. It's yellow, it stands out against the trees. If it were dark brown it would be less obvious. Is the cupula still going to be built? The color is different from what was decided at the meeting. It stands out very abruptly. Chrm. Conero said to Mr. Wiggins, the color was changed, the height was changed and also the cupula will make it higher. Mr. Wiggins said the idea was that it looked like a barn and blend in with the rural community that we have. I'm also concerned that if it's so easy to violate the height, why can't other things be violated? Atty. Dowd said that's why he is under a stop work order, Mr. Wiggins, because as soon as the building inspector realized how big it was; that it was larger than approved, he put a stop work order on it. Mr. McElduff said my client did retain a new professional team to make an amended site plan application as soon as the stop work order was issued. We got on the first agenda we could. Mr. Olley said the Chrm. is correct, the cupula would be too tall at this point so we are not proposing a cupula on the structure at all. I believe there was a lot of discussion about the color of the building ranging from barn red to light brown, something similar to the color of the hangars that the airport. So, I believe it is consistent with the discussions with the board, a light brown, whether you call it yellow or light brown. This is similar in color to the buildings at the airport, which was the understanding that it was going to be. As far as the height, as I stated in my opening comments, that scale of the building was misunderstood at the initial application. The professional that was here representing the applicant at the time stated a certain height, and all I can say is that height would not work for the proposed use of the property to have storage for the finished products and raw materials in palletized form. You can't run a fork lift around a 12ft high building. We're here because of the stop work order, we're here because we want to get the record straight. Identify any impact that may be here that

may be mitigated. We certainly are not running away from the height of the building. Chrm. Conero said the height does conform to our zoning. Mr. Olley said yes.

Mbr. Steed...inaudible...a group from Pennsylvania came in on a Friday and did 50% of the construction on a weekend? Chrm. Conero said he remembers that. Mbr. Steed asks if they remember what weekend that was. Mr. Olley said no, I couldn't tell you what weekend they came in. There's nothing in the code that prohibits that. No work was covered up or hidden behind anything, it was open for inspection by the Building Inspector. A wood pole barn, go to seldom rest construction in Pine Bush, they typically put these building up in about 2-3 days; it's no more than a week. They bring a crane in to set the trusses, it's all metal siding, metal roof on it that all goes together pretty quickly. Chrm. Conero asked are there any stages to the construction of this where the building inspector would have had to examine what was done. Atty. Dowd said he would've examined the footings. There's no utilities, no floor in there right now. Mr. Olley said it's just the shell of the building. Chrm. Conero said the foundation's correct, framing inspection? Atty. Dowd said when the stop work order went into effect, there was basically dirt, there's no electric, there's nothing. Just the shell of the building. Chrm. Conero said so that's the difference between a traditionally built building and a pole type barn. Mr. Olley said concrete footers underneath which would have intermediate inspections and the next inspection would be framing and electrical, plumbing. Chrm. Conero asked if there were any other comments. Mbr. Steed to facilitate payment for construction, there are documented records of what weekend this building was built. Mr. Olley said I'm sure there are. Mbr. Steed asked if he could provide them. Mr. McElduff asked for what purpose? Mbr. Steed said the emails are November 15th and the building is already up. Mr. Olley said absolutely. Mr. Magryta could probably give better dates but it was at the end of October/November 1st, that was about the time. Mr. McElduff said the file stamped on the plans was September 6th or 16th. Mbr. Steed said because looking at the subject on these four emails it includes states information of building "under construction" in the subject type. On the first email it indicates the building was existing and notice of construction. But it really was a new construction, it wasn't existing prior to. Mr. McElduff said their client is following what the FAA wanted. The first one that gets submitted is like a check the box, new construction check new, and then he did the conversation that you're reading to after that. It's all there, their terms.

Chrm. Conero asked about the additional screening, we were talking about additional screening on the sides of the building, are you prepared to provide additional screening to compensate for the height of that? Mr. McElduff said yes. The Chrm. asked what type of trees. Mr. Olley doubling up; staggered rows of what is there because we don't want to create a tree that is going to be higher. The east end will be the original height. Ms. Kalisky stated that the original County review said that the Village will ensure that any new trees planted will not exceed 20ft in height at maturity due to the proximity of the eastern takeoff/landing strip at Orange County Airport. That is why they suggested the fat alert spruce. Mr. Olley said something else was proposed at the time and that is why now, they would propose a staggered row of the same to be consistent with the comment from before. Mbr. Crowley asked which part of the building was in the flight pattern. Mr. Olley indicates on the map. Mbr. Crowley said at the time, the County Airport knew this building was going to be there. Ms. Kalisky to Mr. Magryta, did Orange County Planning forward anything to you, from the original. He said no. The first time he found out about the building was when the applicant stopped by to talk about it. The Planning Department said, in their initial statement, something about the fact that all FAA regulations need to be adhered to in their determination, that it would be approved as long as it met all those regulations. Mr. McElduff said there was no reference in the minutes. Ms. Kalisky said she has the original two County reviews and it was the 20ft height trees. Mbr. Crowley said she didn't recall anybody talking about the building being, at any height, too high at that point. We talked about color, we talked about trees, what size the trees needed to be, but at no point did Orange County Planning

say anything about...Mr. McElduff said he couldn't find any reference to FAA. Mbr. Crowley said they changed the setback. Technically it should have been moved over so it wouldn't have been in the pattern. Chrm. Conero said he we didn't know that. Atty. Dowd said our map isn't correct and we might not have caught it then. Mbr. Crowley said even so, the map is slightly off. Atty. Dowd said that Orange County Planning might have caught that because they would know where that flight plan is and notify the FAA. Mr. Magryta said this is the first structure proposed anywhere near the flight path in 20yrs or more so it's not something they are probably used to. FAA airspace is confusing, it is not intuitive and that everybody looks at the approach surface and thinks that's it but it's really a funnel. If you understand the funnel then you realize the farther away you are from the approach surface, the higher your building can go. So the statement that maybe if that building was off a little bit to the left would've alleviated a lot of these things is true. If the building had been built with the roofline the way it was, all the way across, he believes the FAA would've come back and said it was a penetration-if it stayed the height. The fact that it dropped down at the side closest to the approach surface helped because it became a low penetration. Mr. McElduff shows on the site plan, this is 23ft. It would've been in it. Ms. Kalisky said that is corner/roof peak that actually has the higher obstruction than the higher level only because of the incline. Mr. Olley said this is a 3ft obstruction and this is a 7ft obstruction. So, it would be a little flatter than...when I drew this, it's not accurate. The idea is that there is 2 separate penetrations of the peak of the roof. That's the other thing, too, we're talking about a little triangular area, we're not talking about a flat roof building that's up 32ft high, and it's peaked roof. Mr. Lindner asks Mr. Dowd that if the Planning Board approves it as is and we have the county on record as saying this is not a good idea, and the FAA is saying it is based on a pre-existing, if there were to be a mishap, are we as the village on the hook for this? Atty. Dowd said the FAA is saying if you put the lights up, you're fine. It's in the flight path but if the lights are up, they're basically saying go. Chrm. Conero said from a safety aspect, the FAA is giving us a document that basically says it's safe with these things that you need to put on the building. But the County is coming from a planning perspective but it isn't also not taking into account the FAA letter. Atty. Dowd wants to clarify that. He wants the Planning Department to recognize that the FAA letter exists and if it does exist why is it not included in their letter in their recommendation against this project. That's troubling to me, that they did not consider the letter that was in the packet. Mr. Magryta said the Planning Department will have to speak for themselves on this, the only thing that I believe is mitigating this is the fact of the 7460 filing was after the fact and there is a concern that if it was filed appropriately before the construction of the building, then the FAA would've come back with a different determination and the determination would've specified the height. Chrm. Conero said then we would've thought that the County in two different letters, from their Planning Department would've told us and the applicant that they need to do an FAA in the first place and get the 7460 done and we didn't have that either. Mbr. Crowley said the County has a letter in June where they were involved in the project, they were aware of the project, but made no reference to any height restriction requirement other than the trees. It's very tricky, aviation, so certainly our planning board wouldn't know that, we're relying on the other experts to give us that feedback that's why we involve them, to say okay, is this something that's going to be okay. When orange county planning came back and said yes, its fine, the trees should be this height and they didn't really make any other comments. Mr. Magryta said he thinks from the County's perspective, especially the County Airport's perspective is, I do have a lot of concern about liability here and the airport and the County doesn't want to be on record of accepting something that they believe is potentially a hazard. It's already been determined to be, technically a hazard, to be mitigated with lights but that decision was based on a filing of an existing structure. I don't believe that if this was filed prior to the construction that the FAA would've come back and said yes, you can put it at 32ft and put lights on it. I believe the response would've been it needs to be at "X feet," that's why the county's position is what it is. Atty. Dowd said I understand exactly what you're saying, my problem is they are the ones that

have the authority to say yes or no and they're saying yes with these conditions. If they felt as strongly as they should, they should say no, it's too high. It's under construction, you've got to move the building or you've got to lower the roof, whatever it might be to... They fall back on this is a local enforcement proceeding but yet their agency is the one that permits this stuff. And if they didn't want to permit it they should've just said no and then the applicant has nowhere to go other than to do something; either move the building or lower the building. Mr. Magryta said he uses the common sense principal, take a ride on Dunn Road and take a look and use common sense. That's what struck me. I had no idea about this building project until the applicant came to make a courtesy call and the applicant was told the same thing that the planning department said, make sure you're in compliance with all regulations. So it was the applicant's responsibility to be in compliance, the fact that the applicant became in compliance after the fact, I believe is an issue. I asked the FAA what is the remedy because I was astonished by the FAA's letter so I made a phone call to ask why that was the determination and Mr. Clipper told me that he had to look at it as an existing structure because that's the way it was presented to him. Whatever was going on before that...Chrm. Conero said is this an existing building or not and that's not what the planning board is going to be sitting here tonight mitigating and trying to figure that out. If we have a letter from the FAA that states, this is my feeling on it, if I have a letter that says the Planning Board has to look at all health and safety issues, if we have a letter stating that it's okay, then that's what I go by. The same with County Planning, I agree with the attorney, it's not even mentioned in there. So, I don't know if they overlooked it but I think we can at least move forward and with letting our attorney talk with Orange County Planning to find out the specifics in that.

Mr. Wiggins said the house that I own is on the national register of historic houses. Chrm. Conero asked if this went to SHPO. Ms. Murphy replied yes and there has been no response yet.

Chrm. Conero asked if there were any other comments.

Maria Beltrametti – when we had the initial public hearing there were a lot of concerned citizens, not necessarily direct neighbors but people who are concerned about the entrance to our village, one of our most historic houses and the effect that it would have on our environment. What's happened, this didn't happen by accident so I'm glad you acknowledge that those original drawings were done, that's what everybody understood was going to happen. And there was a lot of discussion about the color. What's happened now it looks like the airport has jumped Dunn Road and between the size of the building, the color of the building and the lights on the building, Bob is now living at the airport and that's just not fair.

Mr. McElduff said we are doing everything we can to mitigate negative impacts that may have. Between the natural buffer and our screening there will be a very small effect.

Mbr. Crowley asked this map here (pointing to zoning map), and that red trapezoid, is wrong and has not been updated. That is the airport, what is that area there? Mr. Olley said that is on your zoning map, it's called the airport overlay zone and it has elevations above sea level at which/at or above which no structures or burdens are to or may be constructed. That's what was probably the, that whole idea that it not need any FAA, I'm not disputing what Mr. Magryta is saying about him advising the applicant about, the applicant is a manufacturer, he is a business man, he's not an FAA expert. But he understood that this was the controlled area. Mbr. Crowley said the reason why I asked was 1) that we need to bring it to the attention of our zoning because that needs to be amended as with the town, so that going further there's a lot of industrial area there that people can build that we don't want to have any other mishaps. Chrm. Conero said that funnel effect there is probably on the town property on either side of the runway. Mr. Olley said it is. There is a

situation in the town, as well. Chrm. Conero said that's going to shift. Mr. Olley said right, they are in a construction project right now; a runway on the other side of the airport is being reoriented so it effects the town. It doesn't affect your maps.

Chrm. Conero said we need to leave this open for a while. Atty. Dowd said you still have to hear from SHPO so you can't take any action tonight. We have this issue with the Planning Department and I'd like to see if I can straighten it out. If you want to close it you can, if you want to leave it open you can, either way, I think we need to adjourn it until next month to see if we can resolve this. Chrm. Conero said I'd like to adjourn it until next month just in case there's other information or another representative that wants to come. Mr. McElduff said I don't have an objection because the 30 days hasn't run out on SHPO so I don't want to lose jurisdiction if we do something without them.

A MOTION was made to ADJOURN THE PUBLIC HEARING FOR APRIL 25, 2018, AT 7:45PM, by Chrm. Conero and seconded by Mbr. Romano and carried 4 Ayes 0 Nays.

Mr. McElduff asked if the stop work order date of March 5th, be extended. Atty. Dowd said he would speak with the Building Inspector.

RE: MINUTES

A MOTION was made to ACCEPT THE MINUTES OF February 28, 2018, by Mbr. Crowley and seconded by Mbr. Romano and carried 4 Ayes 0 Nays.

RE: ADJOURNMENT:

A MOTION was made to ADJOURN THE MEETING AT 9:05 pm by Mbr. Steed and was seconded by Mbr. Romano and carried 4 Ayes 0 Nays.

Tina Murphy, Deputy Village Clerk