

Planning Board Meeting
September 16, 2015

Present:	Jim Ely, Chairman Ann Jacobs Anne Marie Rotter Mary Ann Bachman Ralph Endres Mike Staub	Zoning Board Members: Tom Burgie Bob Bacon Bert Crofton Jonathan Gage Carol Dulski John Holtz
Absent:	Bessie Tyrrell Rodney Terminello	Town Board Members: Supervisor Barbara Welch Jim Bachman
Presenters:	Maria Rudzinski, Ont. Co. Planning Dept. Kevin Olvany, Canandaigua Lake Watershed Council	
Other:	Ted Carman	

The meeting of the Town of South Bristol Planning Board was called to order at 6:05 p.m., followed by the Pledge of Allegiance. All Planning board members were present with the exception of Rodney Terminello. The Town Board and Zoning Board of Appeals' members were invited to join the meeting for the Docking and Mooring Law presentation.

Chairman Ely called for a motion to approve the August 19, 2015 minutes as written. Ralph Endres made said motion which was seconded by Ann Jacobs. The motion was unanimously accepted by all board members, with the exception of Mike Staub, who did not vote, as he was absent at that meeting.

Old Business

Chairman Ely: We are going to have a presentation this evening. However, first we have a couple of items that were left pending from the September meeting.

Gell Center

I did write to the Gell Center, as the Board suggested, indicating that I saw no evidence in our records that we had ever approved their expansion plans. I have not had a response from the Gell Center.

Site Plan Review

The site plan review draft has been received from Jeff Graff and has been circulated to each of you. We obviously aren't going to get to it tonight. I can only say I hope we can get to it at a future meeting. I

bothered Jeff all summer to get it in. This was kind of ‘be careful what you wish for because you might get it’. In any event, that is going to have to be future business.

Demolition Permit

I also contacted Barbara Welch, our Supervisor, about the Demolition Permit letter that we had discussed and indicated that the Code Enforcement Officer had the authority to prepare a Demolition Permit letter on his own initiative.

Ski Valley Proposal

I only learned today, or yesterday, a piece of news. The Ski Valley proposal for a Planned Development has been withdrawn. That’s one thing off our plate.

New Business

Tonight we have presenters, Maria Rudzinski and Kevin Olvany, who have been gracious enough to come and discuss the Docking and Mooring Law with us. I know we had presentations years ago, but we have a lot of new Board members and also we have some new issues. So, I will turn the program over to the two of you.

Maria Rudzinski: Did anyone come who didn’t have the handout? We are going to take it from the basics of the Uniform Docking and Mooring Law. We start with the real basics. Who owns the lake? Well, Canandaigua Lake is water that is owned by the State of New York. It’s owned by the people of the State of New York. It is State property and should be seen as any other piece of State property. If you live next to the lake, once you cross the water mark, you are now on State property, just as if you lived next to the Thruway, or a State Park, and you crossed the boundary line, you are now in State-owned land. In this case, the lake—state-owned waters.

In New York State, and states east of the Mississippi, have adopted a certain approach to lake rights, and in New York and other places, people along the waterway have certain rights. And their basic rights, which is under the navigational law, are simple such as you have reasonable access to the water, for personal use, for recreation, and you have commercial access. This goes back to the days in Woodville, when they were floating timber. When you had basic reasonable access. You didn’t own anything, but you had the right to use the lake for navigation.

The State has the authority to regulate, once you step over that line and you want to build something—a dock, put in a mooring, you want to alter lake. It’s like you just stepped onto the Thruway and you want to build something there, you have to get permission from the State, under navigation law. There are 3-4 people in Albany who regulate all of Long Island and like 7,000 lakes and the Adirondacks. They made the decision back in the 1980’s that they were just going to look away from the Finger Lakes and in this case, Canandaigua Lake, because they determined it was just going to be minimal impact from facilities that were going to be in the water there. Well, that also coincided with the built-up development and there was basically very little oversight—regulation, and some of the shoreline

communities came together with Randy Kuhl, and the State Legislature, passed a law allowing the 6 shore-line communities around Canandaigua Lake and the communities around Honeoye Lake to have the authority to regulate Docks and Moorings. The State is still the trump card, they are just letting us do it. The key was that all 6 municipalities had to enact the same law down to the same comma, period and question mark. The uniformity was the key and there was no variation.

What happened was, the first law was enacted in 1992. There is a coincidence, that's when Bristol Harbour was put on the books. Part of what was prompting it, was some of the larger developments all along the shoreline, but that one in particular. The law was amended in 2004. The first two iterations of the law tried to regulate the number docks and slips you could have based on land use. If it's residential on the lakeside, or if it's this or if it's that. Well, residential is in the eye of the beholder, and started mixing in the way you define residential. It lead to inconsistent water applications around the lake.

We convened the Docks and Moorings Committee before 2004 to go over some basic changes. The Committee was made up of Code Enforcement Officers, representatives from all the shoreline communities, and revised line by line, by line, the existing law. In 2011, we really bit the bullet, and began regulating Docks and Moorings from the landside, the authority that localities have for determining land use.

What do the land owners have to do? Well, they have the right, as I mentioned before: they have the right to access the lake. They have the right to get permission to build a dock or mooring. In this case, it is from one of the localities, and there are cases. If you are going to fill the lake, you have to pay the State. It's not your land. If you have a fill, you pay it, but it's not deeded to you, you just have a right to use it.

When the permit regime was set up, back in 1992, it required a permit to build any permanent dock and mooring facility. If you had an unexpired permit in 2004, the law changed, but the permit expired in 2006—you were entitled to keep that permit. It was the grandfathering provision. If you had a permit that expired after the day of adoption in 2004, it went away. The whistle blew if you didn't act on your permit, and you didn't have your facility in the water. The same thing for the projects that required site plan approval. If you didn't actually execute it, had a completed project, it became null and void, when the law changed over. So they were trying to balance the rights of those people who had something, that hadn't expired, versus just creating an endless, slushing around of different kinds of "I can do this, I can do that" under the old law. So it was a hard break.

The key difference in the 2011 revision, was assigning Tiers to the different kinds of docks and mooring facilities. That responsibility is invested in the Town Board only. There are three tiers and the decision has to be made by the Town Board which of the three tiers it's going to be in. The Zoning Board of Appeals cannot issue a Use Variance and say "Oh, you are in Tier One, but you put in a transient facility, we'll give you a Use Variance". That's not allowed. Only the Elected Board can do that. If they didn't make a specific decision and go, C-1 is Tier II, C-3 is...there is a default. The default is Tier I. So review the rest of the tiers. They may have some relationship to the previous regiment—we try to get out of the land-use business. Tier I is the tier that provides for the small-scale docking and mooring facilities

that residents would have. The personal home owner adjoining the shoreline—this is like carryover from the previous law. So that was the lowest tier and it is the default condition.

If you are putting in a permanent dock, you need a permit. The boat hoist and all the other things that go along with it, the seasonal facilities that you pull out—you don't need a permit, but you have to follow all the rules for standards and measurements as if you needed a permit.

Following is the summary of the allocation of how many slips and docks you get. If you have 1' to 25', you get 1 slip, 1 dock. If you have 25.01' to 50', you get 2 slips, 1 dock. If you have 50.01' to 100', you get 3 slips, 1 dock; 100.01' to 150' you get 4 slips, 2 docks; 150.01' to 200' you get 5 slips, 2 docks and over 200' you get 1 slip for every 50 feet of shoreline in excess of 200' and 1 additional dock per 100 feet of shoreline in excess of 200'. We basically downsized the last category as that's a lot of slips for an individual homeowner, to have 2 docks and 4 boats, then you got more as it increased. This is a carryover from the previous law. They had this generous allocation and at the time, there wasn't the will to grapple with this particular issue. It did have some interesting consequences.

If you have a boat house or boat accessory structure, you cannot sleep in it, you can't turn it into a cottage. You can have electricity, but the structure is supposed to be used exclusively for storing things. The boat accessory structure is something that was allowed to people in areas of steep slopes. They had a lot things that they had to cart down the steep slopes, so they could store their things in the accessory structure. (The handout, Canandaigua Lake Uniform Docking and Mooring Law Overview 2015, page 5, slide 1, should read: "May NOT have utility service except electricity".)

We actually added Steep Slopes back in the 2004 review. This was acknowledging certain problems associated with places that had steep slopes. I think we spent 7 months working on how to define steep slopes. The allowance you were given if you were on a steep slope was the accessory structure, so you can put your things in it without lugging it up and down and you got an extra 200 square feet of dock space, part of which was to put your accessory structure on, so that was the allowance.

Kevin Olvany: It sounds kind of odd, because we usually restrict things on steep slopes, but in this case we acknowledge that you need a little bit more because pulling things up and down staircases is not a fun thing to do.

Maria Rudzinski: Then it puts pressure on Boards to approve accessory structures hanging off the edge and you get into all kinds of other situations.

It is very prescribed what constitutes a steep slope and a steep slope parcel.

Kevin Olvany: The previous law had about 12 feet of vertical distance. Twelve feet or above was considered steep slope and therefore you got those extra things. We jumped that up to 20 feet before it is considered to be a steep slope. We still maintain the same percentage, 30 degrees or basically 57 percent in terms of slope, you need a staircase at that point. So the thought was, make it a little bit easier by giving them a small area to put things in. But we also said, this was one we added in, if you have 10 feet or more usable shoreline, that is 10 feet from the toe of the slope to the mean high-water mark, you have enough space to put your things there, therefore you don't need additional dock

space or accessory structure. That was the approach from that perspective saying we are really trying to limit, to more truly steep slope areas, when we are going to give this allowance.

Maria Rudzinski: There is a proximity too. If you have a structure that is in proximity to the slope, we are assuming you are not lugging things across the street and down steps. If you have an upland building, 60 feet or less from the mean high-water mark, you could just take your things down.

In the definition of parcel, we actually tied it down to measuring steep. There is actually a way to measure steep. We took the 'randomness' out so that Code Enforcement Officers wouldn't have to jigger around with regarding 'what's steep?'

Kevin Olvany: In the previous law it gave an additional 400 square feet of dock space and we actually reduced that down to 200 square feet.

Maria Rudzinski: I'd like to make the point about docking and mooring facilities. If you are in a situation where part of your dock is on the landside, just because of the configuration, it's split and across that magic line, that is counted towards docks and moorings. It is not allowed to be able to get something more from zoning 'to beef it up'. If it's a docking facility, that's all you get. You don't get any more. You can't beef it up to have an accessory boardwalk, or whatever it may be.

Kevin Olvany: In the law, it says, the amount of square footage for a dock, the boardwalk—whole area going out the fingers, cannot exceed 720 square feet. So you get the additional 200 square feet with the steep slope area. That's how we approach that. You can also only go out 60 feet from the mean high-water mark, out with your docking system, unless you don't have 3 feet of usable water, then you can go out farther. That is the only instance you can go out farther.

Maria Rudzinski: That's measureable too. There's a prescription of how to measure when you need that extra for access to deeper water.

Tier II: The word that we avoided, like the plague, is the m-word--marina. But for the purposes of this discussion, Tier II, was the tier where large-scale docking and mooring facilities, commercial in nature, or they could be owned by a municipality, is under. For instance, if the Town or City had wanted to have a public marina/large-scale docking and mooring facility, you fell into the Tier II category. It requires a permit, subject to site plan. This is site plan that has its own standards into the docking and mooring law. So, you are not grabbing it from someplace in your code and applying those standards to the Uniformed Docking and Mooring Law (UDML). The specific standards for the Planning Board to use, when they are reviewing what is unique to the situation, under Docking and Mooring.

We did reduce it, because the amount of slips was huge in the old law, but this still is a very generous allocation. If you had 250' to less than 300', you can get 50 boat slips, and we tell you how to measure shoreline. You can't leave anything to chance and they are going to question anyways. Every time we do this, we try to be as precise as we could, and give the Boards guidance and direction.

Once you got over 300', you could add 10 additional slips. We measured existing marinas, so we were in the ballpark of what is already on the lake. It was a balance that seemed appropriate when we looked at the potential available shoreline.

Once again, if the locality wants to allow a large-scale facility, say in the C-1 district, they have to amend their zoning code to say this is in Tier II of the Docking and Mooring Law's allocation. If it doesn't say that, you don't get it! It has to be an affirmative action by the Local Board. If you want marinas, hopefully, you should have standards on the landside to say how many parking spaces per slip. Regulations that have to do with the landside of the development, can't build on steep slopes, but that would be unnecessary in the zoning part of the code provide the information is in the Dock's and Mooring Law. So you have two things to consider. For example, Bristol Harbour would come in now—they would have to get site plan approval for the upper portion, and standards for the marina and on the lakeside standards for the Docks and Moorings would apply.

There is a provision that you do them in tandem. Don't let people build something before they build their house. The idea is that these things go together. Until they get their site plan approval, until they are doing their upland development, you can start executing your Dock's and Mooring, because they can't say I got a little parcel, now I'll put my dock out there.

Now transient is the use, right down in Woodville, that's where you can 'motor-up', tie up, go to dinner, or whatever you are going to do, visit somebody at the hotel, get back in and leave. There is no overnight staying, no renting spaces, it's not functioning as a marina, it's for transient use, for the convenience of upland use, which is limited to restaurants, hotels and motels. This also requires site plan approval by the Planning Board, with standards that are in the Docking and Mooring Law. The Inn on the Lake has transient docks.

The number of slips, depends on your point of view whether it's too many or too few, but if you have 150' to 200' of shoreline, you get 18 slips. Then depending on additional amount of shoreline, you are eligible to get additional slips.

We can say this in unison, say it 10 times and click your heels! The Uniform Docking and Mooring Law does not guarantee the maximum number of slips! It's very specific. People like to come in and say "it says right there, I got this much and I get this much". The law sets the maximum, but it can be reduced if there is an environmental reason. It's like not to exceed number and it can be lowered if deemed necessary to meet environmental objections, environmental protections. If you have a marina and you need 50 car spaces, and they only had space for 25, well, you don't get that many slips because you don't have the support. We aren't going to let you strap your upland resources just because you deserve, or entitled to, these many slips according to the law. We are very specific about that, because it gives very important authority to Boards to do a balancing test with what a site can actually support, environmentally, use all those other issues, opposed to having a chip—"I have these many".

This was a big change in the 2011 law. I'll reiterate, the source of authority for docks and mooring is in Public Land's Law. That is where authority springs from, to give the Town Board and Planning Board the authority to undertake it. It doesn't come out of a town law, it doesn't come out of a general municipal law. Why is this important?

The old law had variance procedures that relied on the zoning 5-point test and all these other things, which was totally inappropriate for docks and moorings. In this law, we want to keep the variance provision. In talking with the State, they said you can use the ZBA, but you use standards by which

something varies. What they can vary, why they can vary. There is no area variance, no 5-step test, no hardship. You are using someone else's land. You are not using your own.

Kevin Olvany: As a key feature, you have to remember that a lot of times that, yes, you have rights to access, but that is not your land. There is a whole different set of rules. That is state-owned land that you have been given access to.

Maria Rudzinski: Think of it as the Thruway, or interstate, or whatever you want to think of it as. I don't care how much property taxes you pay, per linear feet of shoreline, it still isn't yours. I mean you have certain rights to it that are specified.

The theme that remains the same, to what you are familiar with, when you go for a variance, is the process. How you apply, the kind—you follow that process but you don't use the evaluation tools that are in your zoning code. The Local laws are very specific. It specifies who can appeal, which is similar to the zoning code. There are limits. Only variations of setback from facility area lines. We have places along the shoreline, where people have 40 foot and they are not going to need the side setbacks. This provision was to deal with those situations. To get something in there, you would really have to fit it in there the best way, so you don't bump into your neighbors and all those sorts of things.

The docking configuration, which is elaborate with its appendages, so that is subject to variance and there is the necessary variance if you are going to consolidate docks. It's a complicated. If two adjoining landowners want to share a dock, you are going to need a variance—a setback from your neighbors. The neighbors things float over here, your things float over here, you are not supposed to float in the setback area.

The key purposes are: 1) to provide safe navigational access; or 2) to minimize adverse environmental impacts on Canandaigua Lake and its watershed. It's not because they want to, it's not because it would be nice. It's not because "geez, I really want to have this". There is none of that in there. They are using our collective resource and we are looking at it strictly through the public lens. Is this variance necessary for navigational access or to minimize adverse impacts? Not because they just want to. This is the difference, when you step over that line, you don't own that. You have to act responsibly in the collective public benefit.

It's very specific what you can't vary. The number of slips and moorings; the number of docks; the square feet of the dock(s); the number of accessory facilities, or the use of board accessory structures. Just to pound this home again, the Town Board or City Council only has the authority to change the tier. If they don't take action, the default is Tier I. The ZBA cannot change a tier. There is no such thing as a use variance. That has to do with land use of private property. These people are using public property.

Once again, please remember the Docking and Mooring Law is NOT a zoning ordinance, it cannot regulate land use. You are using a public resource that you are entitled to for navigational purposes and it has nothing to do with how much you pay for your taxes. The only thing it has to do with is how many feet of shoreline and the decision the Board makes to give it a tier number.

Ralph Endres: You said the default, in the absence of any declaration by the Town Board or City Council, is always Tier I? And that's the most restrictive?

Maria Rudzinski: Always Tier I and always most restrictive. That was the consensus. So if someone didn't make a proactive choice, you didn't get what it was. The elected officials had to be proactive in allowing the larger scale facilities.

Chairman Ely: Maria, could the Town Board, in fact, impose more restrictions than Tier I? Could they give you less than Tier I?

Maria Rudzinski: Tier I, in the standards, only requires getting a permit from the Code Enforcement Officer. There is no Board involvement.

Kevin Olvany: That is on a case-specific basis. But on the generic-zoning level, if you are establishing the zoning, you can set specific restrictions to that specific area.

Chairman Ely: There could be more restrictions than Tier I?

Kevin Olvany: Yes.

Maria Rudzinski: I think the lawyers would have a field day with anything more restrictive. But, with that said, if you are taking down something, if you ground that decision in protecting the environment, still providing reasonable access, and that's on the upland side as well as the lakeside, I think that you would get no argument from the Department of Office of General Services, and when you are protecting the environment and you show a rational reason, not that I don't like you or it's too much. What does too much mean? It's too much because there's going to be too much traffic. It's too much because you are going to cause erosion.

There is some creative application with Tier I, In the Town of Canandaigua with people trying to get their toe on the shoreline and there is only 4 parcels, but somehow 20 houses upland are all going to have access to a slip. So now you are migrating into this is not really personal use, this is something else. You are getting into a private community docking and mooring facility.

Kevin Olvany: It's tough to control everything from that perspective. But we are really trying to nail down with the zoning district as the applicable Tier.

Maria Rudzinski: You have residents on either side, and all of a sudden, 20 people can trample down with all their friends and family. That is not what you would expect when you are living in a single family residence, living next to a community facility where people are coming and going all hours of the night.

Jim Bachman: Is there any claw back about grandfathered Docks and Mooring Law, if it fell disrepair or was destroyed? Do they have the ability to rebuild what they have or do they have to follow the new law?

Maria Rudzinski: There is a provision in the Docks and Mooring Law, about non-conformity, or when something isn't used for a period of time. When the law first went into effect, in 1992, people were given a certain amount of time to get a certificate of non-conformity. So you could get your Code Enforcement Officer to take a picture of anything you had, and from then on you were entitled to do

what you had, the day before the Docking and Mooring Law went into effect. The same thing in 2004, if you had something that went into non-conformity, you could go document what you had, so should there be any question in the future, what you were entitled to.

Kevin Olvany: So if it got damaged, how it reads is: “A non-conformity building and/or structure damaged 50% or greater of its existing value, at the time of loss or damage, shall only be allowed to be reconstructed, said building and/or structure, to conformance. So this is typical to what you would see on landside also.

Jim Bachman: I’m sure if you took a boat ride around the lake, there is a lot of what we call ‘non-conformity’ structures today. But after winter, or a storm, if they got a piling to install underneath it, they can’t rebuild a boathouse with sides on it, it would have to be a boat station?

Kevin Olvany: That 50% threshold is always that tough thing to prove from both sides of the equation.

Jim Bachman: So, if 2 out of 4 pilings fall over, is that 2 pilings that can be put back up.

Kevin Olvany: That was the cheaper two.

Maria Rudzinski: How much does it cost to put in new versus used?

Jim Bachman: How about expansion? I’m going to ask the question and maybe you can just explain, Bristol Harbour. They added more swim dock which I’ve heard from you, you can’t do any more. So, they’ve added to it, and yet they still keep adding slips. Under what provision is that...a Tier III?

Maria Rudzinski: That’s Bristol Harbour. In the local law, you have the latitude to look at what you actually approved back in the late 1970’s when Bristol Harbour started. Anything that had site plan approval since 1992, could continue. Whatever they are doing was approved back in that year.

Jim Bachman: So they are building off their PD Site Plan from the 1980’s?

Maria Rudzinski: But what you have to look at, technically, is, was that an open-ended site plan approval or was there actually a sunset provision, like you have these many years to build up. Because at some point in time, you are running on a 23-year approval, whatever it’s been; a lot has changed since that time. We see a lot come in and they say this is what’s been approved back then. We don’t see it. At some point in time, the Town didn’t collect all the approvals over the years. This isn’t easy, because we tried to get this one, it’s come up over and over again, to see what really was approved. Where it was and how it was, so that the Planning Board, or the Town Board, can have a solid benchmark for when enough is enough.

This is all at the local level, this is nothing the County Planning Board would use for subject to site plan, but it’s on the Town to do the research to figure out when this is ever over. Then you get into case law about how long does that property last from an approval, an approval that is 25 years old. I’ve seen

court cases when they've said "it's over! If you haven't been able to execute a project in that many years, you've lost. Go back to your attorney". It's an exercise that is worth looking into.

Barbara Welch: Maria, has there been an attempt to go back years to the initial approval at Bristol Harbour?

Kevin Olvany: I think back in 2011, we were looking. That was one of the questions that came up.

Maria Rudzinski: We could never get, from the Town, what was approved. Then the developer pulls out something, "this was our site plan". I think they were required to get approval from the Office of General Services, because this was before the UDML. That needs some digging into to really sort out where that project stands. What are the various time benchmarks?

Kevin Olvany: Was there a maximum number of boat slips that were allowed?

Maria Rudzinski: If you don't have a beach, you are not allowed to build one on a deck. A lot of people try to build a platform in lieu of a beach. You can't do that. You can't create your own beach. Now this isn't the swim platform that you swim out to, that is regulated by DEC, theoretically. That is different in that Docks and Moorings Law. They do not look at that.

Ralph Endres: Maria, I was out on the lake on Labor Day weekend and down south of Bristol Harbour, quite a bit south of Bristol Harbour, there was a number of blow-up things which looked like buoys. They were for private swim areas. I thought that any buoy that was on that lake, had to be approved by New York State. Because I think now, if a buoy is broken off, you have to contact New York State.

Maria Rudzinski: Ontario County and Yates County Sheriff's implement State law. You are not implementing county law, it is state law.

Ralph Endres: Oh, State parks. They definitely weren't State parks' buoys. I don't have a problem with someone trying to protect a swim area. The difference was that swim area was in about 40-50 feet of water. That isn't really a swim area!

Kevin Olvany: Then you are losing fishing area.

Ralph Endres: Not only that, it's too dangerous to try to control. It wasn't just one piece of property, it was like 4 or 5. I told my wife when we went by, I said, "I don't think they have a right to do that." I'm not about to make a big stink about it, because I've got the rest of the lake. If this gets to be a problem in the future, I will be calling the Sheriff.

Maria Rudzinski: I think the Sheriff's office is the appropriate contact.

Ralph Endres: The speed limits on the lake are not enforced by anybody. I was coming from the dock at 4 o'clock this afternoon, a kid on a jet ski was doing a serpentine. At one point, I worked as a

police officer on radar for 7 years. I used to be able to estimate speed within 2 mph on the road. I'd say he was going 50-60 mph not more than 40 feet from the docks. It's just an accident waiting to happen!

I talked to Sheriff Povero and I talked to the individual deputies, and I understand, they don't want to be the boogiemans out there. Everyone's having a good time on a Sunday afternoon, but something needs to be done to enforce the speed limit so that people who are on shore can enjoy the lake.

Kevin Olvany: I've seen many instances of that. I think when you hear that the lane miles that they are actually covering from a road perspective, you get a quarter mile away from situations, it is very difficult to judge that.

Ralph Endres: Right. Especially on water. On a highway, a 3-rod road is 33 feet from the center line. Thirty-three feet is one boat length. It is difficult. But it isn't difficult when it's 5 mph within 200 feet and someone is going 60 mph, or 50 mph. You don't have to be an expert to make that determination.

Maria Rudzinski: Like the northern part of the lake, I'd be afraid to go out there.

Ralph Endres: Any law you make, you have to be able to enforce it. If you can't enforce it, then there is no use making the law.

Maria Rudzinski: Now, there are two little things I think worth mentioning. All the docks are supposed to have the reflective address. So if you are out on the lake, someone needs help, they get a 9-1-1 call, they can see where I'm located. It's one of those things that's really good to have so the Sheriff's know where you are.

The other thing is, with the Tier II and the Tier III facilities, they have to be handicapped accessible. They are open to the public so they need to meet standards for handicapped accessibility.

Chairman Ely: I have a couple questions. If you have a parcel, you have to build the house before you build the dock? Is that what you said?

Maria Rudzinski: Yes, it's supposed to go in tandem. You don't want to have a vacant parcel and then someone is just putting up a dock.

Chairman Ely: The reason I'm asking, is that we have that situation right now.

Maria Rudzinski: I was reading it in the Docking and Mooring Law.

Chairman Ely: The Code Enforcement Officer and I were discussing that, but I don't know what could be done about it now. Is that in the Docking and Mooring Law?

Maria Rudzinski: That's in the law. I read it this afternoon, unless I read it wrong.

Chairman Ely: Thank you. I will pursue that.

Kevin Olvany: We want to take a look at that. Because we assign what you can do based on a tier.

Maria Rudzinski: We will double check that.

Chairman Ely: That's what they got now. I walk past it every day when I go down there for my walk. Ok, we just recently established, with the Town Board, site plan review for Lakefront Residential (LR). First time we've had that. Sometimes the Code Enforcement Officer reviews things. What I'm hearing you say is that our site plan review for lakefront residential will not extend into a docking and mooring issue per se?

Maria Rudzinski: For Tier I. You can regulate everything if you want those trams—staircases. Any structure that can burn down, you have the ability to regulate.

Chairman Ely: In terms of zoning, and in presuming, since Tier I is the default position. If I bought that lot, I can then put out my dock, and pier, assuming I adhere to the Code, but this Board has first responsibility for that.

Maria Rudzinski: No.

Kevin Olvany: The only thing I can say is, we are running into this with a couple sites in the Town of Canandaigua. What we are really suggesting is that you at least make them show the docking system, how the configuring is and everything, all on the site plan. So then you can see that connection point to how they are coming down from the upland to that docking system. I think it makes for a better decision in the process as you go through site plan review.

Chairman Ely: So, you can actually incorporate that in the site plan review upon submission?

Kevin Olvany: Yes.

Bob Bacon: So for clarification, I thought I heard earlier, if you have a portable dock, there is no permit required? Do you have to submit a site plan with your retention center?

Maria Rudzinski: No, with Tier I, private residences, at the end of the season you pull them out, you do not need a permit, but you do have to follow the standards. The regulatory burden is such, that the consensus is, let people who put it in and out, have to meet the standard, they can't do anything else, but you have the ability to enforce. Things that are permanent, theoretically, they are more detective.

Kevin Olvany: One year you may be in compliance, the next year you might say I'll move it over 20-30 feet, now you are on someone else's facility area line.

Maria Rudzinski: That's what comes up a lot with the seasonal docks. On Honeoye Lake, because the lake freezes, almost all the docks are seasonal. They come in and go out. But then there's the drift, all of a sudden something's gone over here. You figure how to keep it on site. This is your playground, it is this wide, you figure out how to keep your 'stuff' inside the boundary line.

Kevin Olvany: Communities around Honeoye Lake decided not to adopt the Dockings and Moorings Law, and I will say, definitely in my opinion, this has solved a lot of issues in terms of civil lawsuits or issues between neighbors, because they work together.

Maria Rudzinski: We didn't go into the provisions, like I bought it and my great great grandmother had access to it—all those private property rights issues related to those easements. There is a provision in here, they want you all to solve it. They don't want to go to court, they want someone else to solve it. We have no authority to solve private property issues. There's a provision in here that, for what it's worth, when I apply for the permit, I'm acknowledging that I've notified everyone.

Kevin Olvany: You're the adjoining parcel owner—the only individual that can apply. You can't be the easement holder, can't be anyone else. Has to be the adjoining parcel owner that can apply for that permit.

Chairman Ely: Maria, is there any limit, on whether the person building the dock or pier, can also apply for approval to put a roof over the dock or pier?

Maria Rudzinski: Yes, there are design standards in the Dockings and Moorings Law, for the pitch, size

Kevin Olvany: The pitch can be 15 feet high from the mean high-water mark. We do allow you to go out 60 feet with the dock. We didn't restrict how far those boat stations can go out. That might be one of those things we look at in the future and say that may need be part of the consideration. To putting limits onto permanent roof structures going out so far.

Maria Rudzinski: One of the technical aspects—when you are looking at visual access to the lake, you are really looking at public visual access whether you are on the lake looking back or you are on the land looking out. In the land use, in zoning, there are variances, you can consider certain private aesthetics views when you are losing a view or gaining a view. It is extremely difficult because of the configuration of the shore line. I see some absolutely amazing things going on out there when I went out on the boat. It was really hard, I would just tell my son-in-law, just go straight, I don't want to know what's on either side! There are some amazing things!

Ralph Endres: I call them grotesque.

Chairman Ely: Maria, I know we couldn't escape the evening without raising one question—the Everwilde Project. I have received, along with my Board members and Zoning Board of Appeals members, reading of many hours of pleasure, the Draft Environment Impact Statement. I have skimmed it over. They have a section of Docking and Mooring. They seem to understand, assuming the project goes forward, they would be assigned a Tier I. They seem to be able to live with that, I guess they have no choice.

The question does not pertain to that. The question pertains to the fact that they are also proposing a shoreline access walkway, or a boardwalk. They maintain that they have a variance from the Town for a

previous project. They allege that this variance runs with the land. I'm not clear whether a boardwalk falls within the Docking and Mooring provisions.

Maria Rudzinski: Let me put a disclaimer on it. When the Ketmar development went in, and I sat in this room, when they were passing out the variances on that configuration, not being too happy with that approach, the walkway, at that time we had no site plan approval. Subdivision doesn't give any approval for building things. All subdivision tells you, is that you can make it this big—gives you dimensions and where you can put this. It doesn't give you authority to start building, lacking site plan approval. You would have to see it in writing, where on the land side there was any type of town approval. On the lakeside, this has been a subject of discussion in a number of places. On very steep slopes, you have to tiptoe along. It's going to be bad anyway. People going to rent, kids are going to play, it's going to get worn and it's going to slug, in addition to what Mother Nature does. But, if your allotment of square footage of dock is, on the lakeside, if you wanted a boardwalk—there isn't going to be enough square footage, to accommodate your dock, appendages, what it's going to take just to get it in the ground. My understanding is that there had been a UDML permit issued, but it was never executed.

Kevin Olvany: Talking to Phi this morning, that permit has expired. There was an expiration date on that permit. Then you also have zoning changes in that area, you have a completely new project, all those things have changed. Your town attorney will really have to weigh in on this.

Maria Rudzinski: The UDML clearly states, if you have an unexpired permit, you can do what you were going to do.

Kevin Olvany: The variance is based on the expired permit, so I don't see how that runs with the land. But, that has to be something you guys look at.

Ralph Endres: I haven't had a chance to read this, but at one of the last meetings, I think they are talking now about some type of a device to take people down to the shore line. A tram or something.

Chairman Ely: A tram of some sort.

Maria Rudzinski: I asked Kevin because I had a configuration, called Ketmar. Back then there was a road that was supposed to be a road going down, then there was a parking lot for your golf carts down there. That becomes an interesting question for the Planning Board. Is that really an allowed use? Do you allow to have a parking lot for golf carts?

Jim Bachman: Golf carts stay on top. They don't go down to the water edge.

Maria Rudzinski: I'm talking the old plan. I'll call it the Ketmar plan. You can see, you came down, there's a hard turn and then all these little parking spaces for the golf carts.

Chairman Ely: To my knowledge, the Ketmar plan was never approved by this Board.

Maria Rudzinski: There was no site plan?

Chairman Ely: Never approved by this Board.

Maria Rudzinski: They finessed it, “you didn’t need to go to the Planning Board if it was 5 units or less”?

Kevin Olvany: Five units in the area of the Finger Lakes.

Maria Rudzinski: That was an old-school provision.

Chairman Ely: It was a scheme to circumvent the law.

Maria Rudzinski: Quite frankly, when Towns have that and you wanted to take authority, and the purpose of what you are doing is to circumvent the law, then you are in that gray area.

Ralph Endres: I’m the only one that was on the Board when Ketmar came here initially, for the first meeting with the Planning Board. They wanted to do a Planned Development (PD), and I sat in the back, being a member of the Planning Board, saying ‘have at it’, because at the Planning Board we have a lot more control over a Planned Development constructed there, than we do over a R-1, which is what it was at one time. But the Town people were so adamant about another Planned Development in our Town. William Kenyon was the Town attorney then said, he’s a smart guy, we’ll do something different then.

Maria Rudzinski: That’s the unfortunate part about Planned Developments. A lot of times it’s how your Code is written. It should be a proactive tool, to be used in this situation, and in like residential areas, where you aren’t going to get anymore. The idea is that you aren’t going to get anymore, you minimize the impact, maximize the open space, it’s a very cause worthy tool. But the Zoning Code itself, has to be written to focus on it. The local laws aren’t as focused, articulating what the objective of how you want to use that tool.

Ralph Endres: South Bristol, in Ontario County, was the most rural of any of the towns. Now we can go into Yates County, and there are some that are more rural. So we definitely didn’t have the tools to take a development like that and do it justice. Under the Planned Development, we certainly have a lot more, but that never came to us.

Maria Rudzinski: Unfortunately, that falls into the ‘live and learn’ category. This is God’s honest truth. We will get developers or realtors, or people wanting to do stuff, they’ll go into the library, pull down the codes, flipping through. They know what they are looking for. They are looking for the place that they can pretty much do as they see fit. They are savvy and they know what they are doing.

The other thing is, I hate more than anything else. We have this idea, oh my God, we haven’t had this in so many years, they might leave, and we’ll lose the tax base. We are so afraid, that if we say ‘no’, and we have standards, they’ll leave. It’s like I’ll never get a date again. I haven’t had a date in 20 years, if someone asks me out and I say no...why am I so picky? It’s like you need tax base, look at the condition. That’s everywhere.

Some of the mythology about tax base—I see some people make decisions and in fact, they did this in one development. They just needed this tax base. So I got the whole town assessment, the tax base incrementally went up, by this much—it wouldn't even push the needle. If you think your taxes are going to go down \$1,000, I want people to see what type of tax base you are going to need to push that needle down more than \$5. I'm not disrespecting \$5. That needs to be looked at in context of the bigger picture. Have standards, but don't be afraid to say 'yes' and don't be afraid to say 'no'. You live with that decision forever. They are in, they are out. They are going to do whatever it is. The projects going to flip, it's going to be sold to someone else. The community is left with that decision.

Ralph Endres: We've had attorneys come before this board and say if it wasn't specifically exempted, than it's permitted.

Maria Rudzinski: That's not true.

Ralph Endres: That's a perverse way of looking at a law.

Maria Rudzinski: It's technically, legally, false. There is no truth for it. Zoning is a proscriptive document. It says what you can do. When you start playing the game of specifically excluded uses, in your Code, there is a statement, it is generic, but it says "you can only do, what is specifically allowed" and you really don't want to weasel things in there, or something that is like it. That's very hard for Planning Boards to say 'is this close enough to it, or is that sort of like that'—there are no standards.

I've heard attorneys say that. I don't know how they got out of first year of law school to make that assertion. With land use rights, this is what you CAN do. Be careful when you exclude things. In the Code, you can only do these things specifically mentioned.

Ralph Endres: When we are sitting on a board, and no one's an attorney, you have to think about it a while. They are long gone before you realize they are wrong.

Maria Rudzinski: Look in the Zoning Code. There should be some place in the Code that says, even if it doesn't say, zoning code tells you what you CAN do, not to think of every last thing you can't do.

Chairman Ely: Any other questions for our presenters? Anyone in the audience?

Mary Ann Bachman: Just for clarification—the Everwilde project. The Tier III, how it's transient, how it's environmental, adverse impact? In keeping the environment safe, we are going with Tier I. It looks like they are going with Tier I. So it looks like that is clarified. Even though it's transient.

Maria Rudzinski: This is a hybrid situation. It's interesting that they want to give them a boat house. You don't get a boat house.

Mary Ann Bachman: The reason I say that, is you said the word 'marina' and the word 'marina' has been thrown out at our meetings, so what is your definition of marina?

Maria Rudzinski: From a Docks and Moorings standpoint, it is a large-scale docks and moorings facility. When you look at the standards, we are talking 50+ boats, they are either public or private, or quasi, semi-public. We stayed away from marina.

Kevin Olvany: A marina is: a facility that provides docking and mooring facilities and associated land-based support facilities such as parking, marine re-fueling, restaurants, marine dump stations, and incidental sales and services.

Maria Rudzinski: But we kept it specific to Docks and Moorings in the upland.

Kevin Olvany: Parking is one of those listed things.

Maria Rudzinski: Parking is in there and anything else that is an accessory to. When you start talking restaurants and gift shops and the marine repair facilities—those have to be enumerated allowed uses that are going to take place on the upland side. But a marina, in what they are hoping to do, they are happy with a Tier I. The Town Board needs to look at any proposal and see how that configuration really, remember, it's a maximum it's not a guarantee, and if there are compelling reasons you can step it down. You don't have to stretch the amount of shore line, from one end of the earth to the other. You are trying to minimize. They are only entitled to reasonable, navigational access. They know they have to go to OGS and get a permit—they have to pay. If you are going to make money off State Land, you have to pay for the use. That is required under State Law.

Jim Bachman: Regarding Everwilde, assuming we get to the point where we award a Tier I, Docking and Mooring layout, is that locked in, or can it be changed?

Maria Rudzinski: That Tier I needs a permit. An application will be made, they will be issued a permit and that's it for that.

Kevin Olvany: If the Town Board decides, or doesn't decide, you have to make that decision if you are going to grant a zoning change. So that is a big-picture item. If you decide to do that, there is a lot to do before that process. Setting prescriptions on that zoning district, I think, will be critical for the lake side area. To me, I think you would not only assign a Tier I aspect to it, so it's an affirmative decision, this is Tier I, but also limit the number of boat slips, so any other configurations in the future, connect to 'you only get 10 boat slips'. It's another way to put a check in on any future configurations.

Jim Bachman: So that's the only changes that were locked-in by the local law, as that would encompass the Tier I, as that would not be an easy thing to undo?

Barbara Welch: Right. It would only be able to be undone by reopening the local law, subsequent Board, and change that. But, as Ralph mentioned, because it is a Planned Development (PD) application, if and when Everwilde was approved, there are conditions that are embedded in that local law. We've already started a list, as we come across them, things we would want embedded in the local law.

Maria Rudzinski: Let's just say, if you tie it down as tight as you can, you don't want to string all this out. If you don't want them to have ferry boats coming back and forth doing tours, be very specific.

“This is what you were allowed to do.” If you want to allow a scenic ride on the lake, you decide. Be proactive in saying what is allowed and all that is allowed. If they starting doing something else, they can’t.

Kevin Olvany: To me, it’s critical that as you move forward, it’s kind of having two-levels of assurance. The Tier classification plus whatever limitation you want to put on the number of boat slips are allowed, and maybe configuration of the docking facility. All that has to be laid out.

Maria Rudzinski: Be concerned about the boat house. UDML only allows a boat house to have rails to store a boat, not to have a concession stand. A boat house is an accessory to the navigational access.

Jim Bachman: I have to see that.

Maria Rudzinski: What is a boat house is? I saw one of the iterations, had a boathouse. It is counted as a slip. Be advised, if you have a boat hoist structure, those count as slips. So, if they have a boat house, and it’s wide enough to have two slips, that’s two of their allotment.

Jim Bachman: I understand. That was my understanding too. You mentioned a concession stand and that’s not what I’ve seen.

Maria Rudzinski: Letting that happen down there, is a slippery slope.

Kevin Olvany: In terms of a boardwalk, that they are talking about; I just hope that there is not a false choice of: well, we can go into the cliff, to get a boat, from the mean high-water mark, is a non-viable solution. That is not a viable solution to try to create that above mean high-water access route. That’s not going to work from an engineering perspective, it’s going to collapse. Therefore, their only other option is to put a board walk over in the Docking and Mooring part. There is a variance allowance within Docking and Mooring component for configuration, but we are very specific in saying that 50% of your dock has to be what’s going out, perpendicular.

Jim Bachman: That’s where I ask my next question. Their plan calls to scale back what they call the North-South length of the property some, but just by looking at it and I think I heard this from you previously, but they are only allowed a certain number of square feet of dock based on the standards of length of property, but there is a lot of dock there. Figures for 10-11 slips, but 300 feet of boardwalk.

Maria Rudzinski: I think the advantage of variance, you only get so many square feet. Period. The end. You can’t vary that. The advantage to that, it can’t be spread out. You’ve got this many square feet and if you want a little walkway in between, that counts. That’s transient. There is no benefit to having it stretched out along the shoreline. Think of it as a parking lot for boats.

Jim Bachman: Is that, in your estimation, from what they have shown, that they are looking to capture a previous variance?

Maria Rudzinski: The Ketmar project got land-based variances to run those thin little trails. That’s what they needed the variances for because they didn’t have the width, the frontage on the lake to

meet the standards, so they got variances to have smaller parcels with the tram coming down, that's the variance they have. If they revert to that development, walk in and want to do something with it, that will be another topic. Now you have site plan review, you have standards—it's not a free-for-all.

Barbara Welch: When we first looked at the Draft Environmental Impact Statement, you will recall, some of you who were here, we went through page by page. The Town Board made its comments. Ashley Champion, their Attorney, was here in the front. We did point out page 69, of the original draft, talks about this variance. That has been documented here at the Town Hall, and referred to our Attorney. I mentioned it, that it was something we were going to resolve. It was not going to be left open for interpretation later on. This is something that's going to get locked down.

Maria Rudzinski: If they choose to put residences there, even though they have a certain subdivision configuration now, they still have to comply with steep slopes and all the things that come to play in the current law. Just because you have this parcel that may all be on 100% steep slope, this is the law, this is what's enforced now, it doesn't really matter what happened in 2007, or 2006. They have to either come in for 1,000 variances, from the variance parts of your law, or they are going to have to re-configure the lots so that they can be in compliance with what you have today. You have control over whatever happens on that site. Even if you are going to build residences there, because now you have site plan approval. There is nothing to grandfather because there was no site plan approval.

Jim Bachman: What I'm getting at, is when you look at this, 400 feet down to 300 feet, of this high-water mark, and they have several fingers coming out to 10 or 11 boat slips, there still seems like a lot of square footage at stake. Based on the square footage of docks, it would appear that they would see it, by the shore line boardwalk, so perhaps there is an expectation, I'm not sure how to make that happen, to shrink that down further. That's really what I'm asking.

Maria Rudzinski: All those boundaries are disappearing now with the PUD. There is only one parcel. If you add up and divide by whatever it is, you get so many. You get so many square feet, if it meets the steep slope standards. So, they are going to have an onsite number for square foot of dock.

It's determined by linear measurement, it's a straight calculation. So, figure out how you want to do it. Do you want to have a little walkway between slips? You aren't getting any more.

Jim Backman: Could we get that square footage number, if we assign a Tier I, on that property?

Kevin Olvany: It sounds like they are consolidating, so we have to take that into consideration.

Maria Rudzinski: You see what I mean? There is only one parcel. Regardless, the area variance then has to do with regulating private land. Keep in mind, once you cross that line, you are sitting on the 'thruway', you are on public property. You are granted certain rights to it.

Ted Carman: If I needed a Boardwalk to access the configuration, and I'm refused or I'm squeezed out, because I don't have the adequate square footage, I can: a) cluster those docks or slips

closer together, or b) within the South Bristol Town Code, could I put multiple trams down, or am I limited in the number of trams?

Maria Rudzinski: It's addressed in the PUD. This is probably one of the most environmentally fragile places. You don't have to do anything, 'stuff' is going to fall down the hillside. So, I can't think of anyplace more compromised than this. Anything that would go on down there, the fewer, more focused, more limited, given the hit that hillside is going to take one way or another. It's not only highly erodible, it's highly, highly, erodible. With the tram, you got to secure that. It's got to go into something that's going to want to move. However that is going to be engineered, is going to be really important. It can be an advantage, environmentally, that the roadway, and the gazebo, and all the other things that are going to be there, but specify, specify, specify.

Ralph Endres: I think their thought, with this tram, was due to the Americans with Disability Act (ADA). I think that is what they are saying, since this is a commercial enterprise.

Maria Rudzinski: It wouldn't surprise me.

Ralph Endres: But, I can tell you, when this was sent to the Town Board, there was no tram, no elevator, that's an add-on. If it's an ADA issue, that's their problem, that's not our problem.

Maria Rudzinski: If you are just trying to get people down there, that is a horse of a different color. But if we are going to have this, and a gazebo, and a staircase, that is different.

Kevin Olvany: Before, it was just a staircase. There was no tram, no gravel, they were not going to use that existing corridor in going down, it was just a staircase. Now they are adding a tram.

Chairman Ely: The tram was not before us, it was just a staircase.

Ralph Endres: A staircase is what was presented to us.

Maria Rudzinski: Anything that goes on that hillside, whether it's the road, or tram, you don't have to be a geologist. You can see.

Ralph Endres: Maria is preaching to the choir. I'll be fishing with my back to the cliff, and all of a sudden I'll hear something, and I'll look, I see 'stuff' coming down. It's not just there, it's the whole lake.

Maria Rudzinski: I'm so used to hearing that can-do attitude, we can engineer, we can do it! They are long gone and who gets the phone call when something bad happens? You permitted it! I can tell you from my County's experience, just because there is an Engineering stamp on it, does not get you off the hook.

Ralph Endres: You can shop for an engineer, just like you can shop for an attorney or an accountant. You can get an accountant that will tell you two plus two is three.

Maria Rudzinski: I'm not telling you that you shouldn't, but given what you have there, even if you just have a private residence, given what you need up there, has to be carefully looked at. It's high

and it's vulnerable and any path you open up, no matter how you engineer it, when that water comes down, it's going to go the shortest distance between two points. It's not going to say, "hey, we got to turn this way, then we are going to go that way."

Jim Bachman: This is the interesting thing. You go over on the east side, at least one location that tram goes right up through the ravine. So water is running down beneath the tram.

Ralph Endres: On the East side? They had a couple people injured over there. I don't know if that's the same location. I remember, years ago, a couple women were seriously injured over there.

Maria Rudzinski: It's not insignificant. I can see where it's a public facility and that's quite a hike to get up there.

Ralph Endres: It's not for the faint of heart to walk up and down those stairs.

Maria Rudzinski: Even if you did the marathon this weekend, it is not insignificant.

Ralph Endres: I used to tell me wife, when we would go by the places on the eastside, I would say, "Can you imagine if you walked down there and said you forgot your lipstick? You would be without lipstick!"

Chairman Ely: I'd like to thank you both very much for coming, giving up your evening, and most important, the excellent presentation.

Barbara Welch: Can I ask a question, while we are all still in the room? I'm so sorry.

Kevin, Jim Ely and I talked yesterday, about the Colabarb Park. So everyone is on the same page, the Planning Board asked us to look into developing that park. The Town Board actually approved money to have a grant application written. After that, Kevin graciously said that he thought there would be a way to do this without too much financial investment on the Town. Is there anything you can tell us while representatives of both boards are here?

Kevin Olvany: Yes. Finger Lakes Community College has a couple different professors with GIS (Geographic Information Systems) mapping systems. They are always looking for projects they can take on, ready-made projects to help make their class real life. One of the things would be hiking trails. I teach over there, the last 15 years, also. There definitely are some possibilities. I've also reached out to the Landscape Architect Department and we will see how that plays out also.

The other thing is that we have some in-house resources where we can draw some possible paths, on that whole property. The big thing is how do you want to maintain it? When you start looking at those things, it's ok to cut it once, but how are you going to continue to maintain it? To me, obviously, the goal is low maintenance trail, you got a very substantial drop-off, and if you went ahead with any type of trail system in that steep-slope area. Just looking on the map, you can see the slope percentages 10-15 percentage, then all of a sudden it drops to 25, 40-50 percentage slopes. Just seems like it may not be the smartest idea to try to have a trail go down there.

So, maybe we can look at a loop trail with nice steady contour line we can work off.

The question back to you, is how do you want to maintain that trail?

Barbara Welch: Very low maintenance.

Kevin Olvany: Do you want the access coming from where the overlook is or going down the road.

Chairman Ely: That raises a question that Barbara and I have discussed. There is some talk whether we could convert the private road, at least partially, into a public road- Town Road. I think the Overlook Park is extremely steep. I just fear we are opening ourselves up to someone taking a nasty fall.

Maria Rudzinski: I think a pull-off or a few-car parking down where that access is, the old lane way, would be a minimalist approach because if you start cutting off County Road 12—bad idea. Even if you want a loop within a loop that's accessible, vision for more handicapped-accessibility, something like that.

Kevin Olvany: You could build a stair system down there, but that would be costly and that's not what you are looking for. Look at the variety of options. Then maybe next year, if you do apply for a grant, now you can show due diligence, you are really ready to put in a grant application, showing you are taking this concept phase and bringing it to final engineering. Now you are much more grant-eligible.

Chairman Ely: First, I have to report to the Planning Board that Anne Caprini resigned, as a member of the Board. Barbara and I will have to consider the steps to replace her.

Lastly, the SEQR review procedures. That relates to this fast-reading, blue book, in front of you. Barbara, correct me if I'm wrong. The public comment time goes until October 19th. We do not meet again until, scheduled meeting, until October 21st. I have also talked briefly with Tom Burgie, Chairperson of the ZBA, whether it might be useful to have a joint meeting between this Board and the ZBA. My thought is that we could invite Kathy Spencer, our Engineer, from LaBella, to come to that meeting, help us answer questions, which I'm sure we will have, at least I will have because I'm not an Engineer, and help us to formulate appropriate responses. I want to emphasize, we are not the "lead" agency. We are only an "interested" agency. We make comments and suggestions.

What I would like to do, with your kind permission, is to work with Tom, on a date that would work for us, and schedule a joint meeting. It would probably have to be an extra meeting. It would probably be the week of October 10 and see what we can come up with, if that's agreeable.

Ralph Endres: Sounds good. Then we get more minds working on this thing.

Chairman Ely: We get more minds working on this, but we can do separate reports. The ZBA can do a separate report, but we only have to have Kathy come once. All of us can ask questions for the report. I heard she did a professional job at the Town Board meetings. I'll get back to you with a date.

I won't be here for the November meeting.

Bessie Tyrrell: Last year we combined meetings.

Chairman Ely: We combined meeting during the holiday period. Would that be agreeable?
Everyone on the Planning Board, in attendance, agreed. The combined meeting was set for December 9.

Being no further business, Ralph Endres made a motion to adjourn, seconded by Mike Staub. The motion was unanimously accepted and meeting adjourned at 8:00 p.m.

Respectfully submitted,

Colleen Converse,
Recording Secretary