

**TOWN OF LIBERTY  
PLANNING BOARD MINUTES  
August 18, 2009**

**MEMBERS PRESENT**

Diane S. Deutsch, Chairman  
Lynn Dowe  
Ray Kelly  
Dean Farrand  
John Van Etten  
Peter Stettner, Alternate  
Denise Birmingham, Alternate

**ABSENT**

**ALSO PRESENT**

Walter F. Garigliano, Town Attorney  
Mark Van Etten, Building CEO  
See attached sign in sheet

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**CHAIRMAN DEUTSCH CALLED THE MEETING TO ORDER AT 7:15 PM.**

**PUBLIC HEARING:**

**Robert T Werlau**  
2 lot Subdivision  
5988 State Route 55  
SBL: 23.-1-54,2  
Zone: RS #2009-0025

Twenty notices sent, 17 green cards received. Chairman Deutsch asked if there was anyone present from the public.

Don Weigand: What is the intention of the buyer. Allegedly TAPE UNCLEAR – TALKING TO FAST the building's going to be sold. TAPE UNCLEAR with the driveway coming out on Airport Road, but what's the intended use of that building? And if it were commercial, because we've dealt with commercial business there for years and it wasn't pleasant believe me.

Chairman Deutsch: Well it's not going to be commercial.

Mrs. Weigand: What are the guarantees that it won't be commercial. We've been duped before. We went a long time with tractor-trailers, gooseneck trailers, diesel fumes, noise and TAPE UNCLEAR your policy said it was hereby declared to be the policy of the Town of Liberty to safeguard the right of its residents within the privacy of their homes to be free from intrusive unwanted sounds. And what is the guaranty since we've been duped before for so many years, that this won't happen again. My second point is we need a clear definition of the word storage. Storage is not vehicles that come and go after 9:30 at night and at 6:00 the entire fleet moves out again. That's not storage. That's a business.

Don Weigand: 5:00 in the morning until 11:00 at night, seven days a week. I mean that's been remedied up to a point. But my point is, some people give you an honest answer. My question is a lot of times is given. Not that the seller wants to sell it make money, but the people who live there in the residential area TAPE UNCLEAR first. I thank you for the chance to speak. I have another question about drainage. Because I know there have been past problems on that property where they ditched it to the road. Their side of the road the County had to put a 12 inch sluice pipe to handle the runoff that comes on us. If anybody on the Planning Board would like to come and see

what that, not only the water from our side of the road, from that side of the road has done, they're welcome to come and see. The third point is the safety of the proposed driveway on Airport Road. You should be on that road about quarter to eight, 8:00 o'clock in the morning. I don't know how much room you need for a driveway, but it doesn't really seem like the safest spot. I don't know where else you could put a driveway, an entrance or exit. The traffic that's on that road. It's almost on a corner, you know by trees and you'd have to see it, but I don't think there's more than 100 feet from the driveway to each end of the corner. That's a well-traveled road.

Chairman Deutsch: Okay.

Mr. Simpson: I live on Airport Road. I live on a short section. What Don said here is right because you've got to be really careful early in the morning. You've got to look both ways, it's like this, it's like Main Street out here. I almost got it a couple times four o'clock in the afternoon too.

Don Weigand: What would you say the distance with the survey marks for the proposed driveway is. It's not far. I don't know what you need, the distance for a driveway to enter a road, but this has to be one of the most hazardous places.

Mr. Simpson: You've got two corners as you come from the airport you got 200 feet and it starts TAPE UNCLEAR and people can't see past the turn. And you can come down here anytime.

Chairman Deutsch: Okay, there has been a lot of discussion about the placement of the driveway. That's been discussed at length.

Don Weigand Not to disrupt progress, I don't believe you can, but there can be control of respectable progress which would be nice if everybody did. I don't care who you are and how much money you have or much money you don't. The people that live around are paying the price. It's a nice area, it really is.

Chairman Deutsch: Thank you. Is there anyone else?

Cathy Simpson: I'm his wife. I was wondering are they subdividing it? Are they putting homes in each area or, what about wells and because that there is an issue too. If they start digging wells, you know we gotta know what area it's going to be in and if there are septics, that type of thing.

Chairman Deutsch: Okay, any other concerns?

Jacqueline Don Vito: I live next door to the residence. I didn't see the plans so just didn't know how the subdivision was. Is it directly behind the residence?

PAPER RUSTLING

Jacqueline Don Vito: My question is if it will be zoned commercial.

Chairman Deutsch: No, the zoning isn't changing.

Jacqueline Don Vito: So that is zoned residential?

Chairman Deutsch: Yes it is.

Jacqueline Don Vito: Then there shouldn't be moving in or out of there.

Chairman Deutsch: Do you want to see the map? Any other questions comments, concerns, statements? Anybody?

Don Weigand: I want, when a person says they're going to do this or do that, which I understand comes down to economics and money, but after the fact the proposed purpose turns to something else, it's years and years to get it changed. You know if becomes a commercial business, it just takes years and it's expensive. And guys like Mark pay the price when guys like me come and hassle him. You know, but you try and be tolerant, but when something like that happens then I question it from the get go what was the original intention. When you tell somebody one thing and all of a sudden it blows into something else, it's almost like it's pre-conceived. You know and then fight it and you do for years. It's just not right.

Chairman Deutsch: Okay, thank you. Anything else? If there's nothing else, we're going to close the public portion of this hearing.

**MOTION WAS MADE BY DEAN FARRAND SECONDED BY JOHN VAN ETEN TO CLOSE THE PUBLIC HEARING. APPROVED.**

Chairman Deutsch: We might as well stay on this project.

Attorney Garigliano: Does anybody know, or can the applicant give us some guidance as to whether there's any water supply or plumbing facilities in the storage building.

Robert Werlau: No, there's none.

Chairman Deutsch: We did have a 239 come back. I guess you've had a chance to look at it.

Robert Werlau: The intended use of this building subdivided as such is for one gentleman who collects antique cars, boats, it'll be non-commercial, residential. The driveway will not connect with my existing driveway. There will be about a 60 foot piece that will be seeded and mulched. The gentleman that is looking at purchasing is not from around here, so there is no daily traffic. He's looking for a place on the weekends to come up and putter around with his old cars and boats. The traffic that goes out on 55 will be limited to mine and my wife's or whoever comes to visit us. The use of the storage building will enter onto Airport Road as shown on the maps.

Chairman Deutsch: In Code do we have a specific definition on residential storage?

Attorney Garigliano: No. There is no definition in the Code. And as you know from prior information provided, the storage building was built I believe, Nancy, two years before the house?

Nancy Saucier: Yes.

Chairman Deutsch: Please turn off all cell phones.

Nancy Saucier: The storage facility received it's CO on January 8, 1999 and received the CO on the one family house in October of 2002.

Attorney Garigliano: There's no section in the Code. I mean Mark makes those determinations and when he felt the use was not in accordance with what was allowed, as you know the Town brought litigation against the owner to stop the use, which ultimately compliance was achieved.

Chairman Deutsch: Anyone have any comments?

Dean Farrand: Can they have a storage building without building a residence?

Attorney Garigliano: That again is an issue the then in place Code Enforcement Officer can make a decision on. It's been historically, the question isn't whether, the question is whether you have an accessory use if you don't have the underlying primary use. It's handled differently in many different municipalities. I don't think there's a right or wrong answer. I have gone over it with Ken Klein who is the Town Attorney here. We agree that past custom and practice in the Town needs to be the guide. Many Towns interpret that or many Code Enforcement Officers interpret it that you can have an accessory use that is accessory to a permitted use whether or not the permitted use has been established. There's many occasions where people are given permits to build a garage, for example, with the belief that they'll use that as storage for building materials and the like and later build a house and sometimes those houses are built and sometimes they aren't. But certainly back in the time when Pam was the CEO, this was not an unusual practice to allow a garage or storage building to be established. I don't know what Mark's policy is, but it's not really that relevant because there was a permit issued and there was a CO issued for this building back in 1999. And I think, I don't know if you got the e-mails I sent around, it did say residential storage on the...

Dean Farrand: TALKING TOO SOFTLY ... residential storage on the CO.

Attorney Garigliano: Correct.

Dean Farrand: And in the history there would not be TAPE UNCLEAR which was litigated.

Attorney Garigliano: No, which when it was not residential, the Town enforced it's Zoning Code and that use ceased. There was no doubt it was difficult and took time but eventually enforcement occurred and compliance was achieved.

TAPE UNCLEAR

Dean Farrand: I think it would be helpful, at least for me it would be helpful if we could at least articulate, I guess on this document, what we consider residential storage to be. So that these folks have a little bit more weight next time if it does happen. Not necessarily you, but a future buyer goes down the same row and these folks are in the same battle and I don't think they should have to fight that battle too many times. Does it help then if we sit here and put a definition to it. We believe at this point...

Attorney Garigliano: I guess the answer to that is like you have a cold and somebody suggest you have some chicken soup, can't hurt. So if that is something you would like to add as a note to the map, I don't see any, there's no down side to that certainly.

Robert Werlau: I mean it all falls within decibel reading locations and time of usage.

John Van Etten: I agree with that we should definitely put something on the map.

Attorney Garigliano: Yeah, so if you add a note to the map, there's nothing wrong with that at all.

Dean Farrand: Because I don't think that anybody, I mean I may be speaking out of turn for you folks, I don't think you really would have a problem if somebody was working on antique cars and that, but it's the future that we worry about. Suddenly somebody decides to open an Ideal Snacks up there TAPE UNCLEAR commercial.

Attorney Garigliano: By the same token, it could be leased to somebody today who could establish an inappropriate use and that has nothing to do with drawing a line through a lot to create two lots.

Denise Birmingham: I have a problem with it.

Attorney Garigliano: Okay.

Denise Birmingham: That's because one thing it's going to be used as a vehicle storage, which is like a garage to fix cars. Even though it's private, it just seems like you run into trouble whenever anything like that happens. There's no water at this time, you don't have any septic for that building.

John Van Etten: I think what you're trying to say is there's a difference between bringing cars and storing them there and working on them or fixing them...

Denise Birmingham: And using to work on and when you add that to it's, are we fixing cars there?

Robert Werlau: The guy's a car collector. Storage, if he's working on one car as a time...

Chairman Deutsch: You don't know his intention as far as working on what he would be storing there?

Robert Werlau: No.

TAPE UNCLEAR MANY BOARD MEMBERS TALKING AT ONCE

Chairman Deutsch: Go ahead.

Dean Farrand: The tape is going to be messed up now, right?

Chairman Deutsch: Go ahead.

Ray Kelly: The storage building is without water and sewer or any plans of a residence being built there. So it's always going to be non-conforming at this point.

Dean Farrand: Yes, and again it may be chicken soup, but I think that this point the only solution we have is to very carefully define what we approving today as residential storage and if it means we have to sit here and say what we mean residential and storage mean to us. It doesn't mean working on cars to me, it means you're storing a car. It doesn't mean you're going to bring in a commercial vehicle in there it means you're going to bring in your bring your personal vehicles you have title to. Anything short of that it's not residential storage, but potentially a world of headaches on Mark's shoulders. But given the past history that you folks had and clearly you have a right to be concerned about the future. It's a non-conforming use no matter what we do once we approve the subdivision.

Chairman Deutsch: John?

John Van Etten: Did anyone get a chance to thoroughly review the 239?

Dean Farrand: I did.

Attorney Garigliano: I read it.

Chairman Deutsch: I'll probably read it tonight.

Attorney Garigliano: Whether or not it's not...if you view it appropriate that someone can get a permit, construct and get a CO for accessory use without having previously established the permitted use, then it wasn't non-conforming then and it wouldn't be non-conforming now if you view it that way. And Pam obviously viewed it that way or she wouldn't have issued the Building Permit and wouldn't have issued the CO. We're kind of stuck with what happened in 1999, we can't change that. I did look at the County letter, I think that answers the first bullet. In terms of the second bullet I'm not sure, well that answer's kind of the second bullet.

Chairman Deutsch: Yeah.

Attorney Garigliano: We already know, I mean the first bullet just tells us what we already know, which is what the Zoning Law says. There were to the best of my knowledge, and I handled the litigation at the time the Town enforced it's Zoning Code to stop the use that was occurring there, we never came upon what were provided through discovery with any conditions that were placed on the use when it was established. So I don't believe there are any and you know I know that the applicant's father testified at the time in deposition there weren't any restrictions on use specifically to the building, the restrictions on use that are restrictions on every use for everybody is the Zoning Law. And in terms of the third bullet, I don't know what the unrealistic expectation is if somebody goes out there and performs a commercial use at that site, I'm sure Mark is going to do what he did last time which is to bring it to the Town Board's attention and ask for enforcement action to be taken. Putting the note on the map you know certainly goes above and beyond in terms of buyer beware. You know they are saying that some future owner might have an unrealistic expectation of what they can do on a lot. I mean you would hope that the normal real estate disclosures and the due diligence process of looking at a Zoning Law before you make a purchase decision would cover that, but I don't think, I think the letter is completely accurate from the County. I mean it's truly a policy issue in terms of there's some Towns that are very strict in terms of accessory uses. There are many, many towns allow certain accessory uses to be established, whether or not the primary use is ever established. I mean it happens all the time. You see lots all over the place with storage sheds. You see lots all over the place with cabanas, you now without homes. You see lots with garages without homes and that was certainly the policy. What Mark does now is not as relevant to this as what Pam did and it was certainly common and obviously Pam thought it was appropriate or she wouldn't have issued the permit or issued the CO. So we're basically stuck with a 1999 issue, I don't think your suggestion is a good suggestion to just note on the map that it's a residential zone and use of the building that is located on the lot is for residential purposes only. I don't know what else you could really say.

Dean Farrand: I'm not as hung up on the accessory versus principal as I am residential versus commercial.

Attorney Garigliano: It's clearly got to be a use of, that's a normal use of residential character that people would do at a building like this if they had a home on the same lot. And I certainly understand all your concerns. You know you just have to decide what you want to do with it. My concern had to do with it being less than five acres and there being no perc and pitt test which was more of a check technical concern than a concern about the Zoning issue. And I don't know how we feel about that and I don't know what the...

Chairman Deutsch: Well it's been our policy to require it.

Attorney Garigliano: ...or at least gather information that there's a perc and pitt that's decent in the area. And I know it shouldn't be a big issue for this applicant to do the necessary work to comply with that.

TAPE UNCLEAR – SPEAKING TOO SOFTLY

Attorney Garigliano: In terms of the driveway, you've probably all been out there. The new location is, whether or not the new location is good or bad, I'm not an expert. It's a material, material improvement over the prior proposed driveway.

TAPE UNCLEAR ALL TALKING AT ONCE

Robert Werlau: I think there were columns there but I think Timmy changed them.

TAPE UNCLEAR ALL TALKING AT ONCE

Chairman Deutsch: Three flags?

Robert Werlau: Yes, there were three flags there.

Dean Farrand: Yeah, three flags.

Chairman Deutsch: Lynn, you have anything?

Lynn Dowe: Well I definitely agree, but I think we have to determine what residential use is so it doesn't get out of hand.

Attorney Garigliano: If Mark disagrees with you he gets to make the call, because he's the one that interprets. You can put a note on the map, it's advisory only, it's not binding on anybody, but I think we should do it. And I don't think we should get terribly fancy with it, I think we should...

Ray Kelly: That it's residential and not commercial.

Attorney Garigliano: Exactly.

Ray Kelly: I think we could argue forever...TAPE UNCLEAR INTERRUPTIONS ... and we know he's not going to be selling things. He's not going to have people bringing their cars in to be repaired.

Attorney Garigliano: And I think we still have to be cognizant of the fact that that's a buyer that doesn't even exist yet and it could be anybody. That deal could fall through and it could be anybody tomorrow.

Ray Kelly: Right.

Chairman Deutsch: Peter?

Peter Stettner: Emphasize that you got a residential on it.

Chairman Deutsch: Anything to add?

Denise Birmingham: No.

Chairman Deutsch: Okay. Then we have to do SEQR and then we decide what we're going to do on the wording to be added and the perc.

Attorney Garigliano read SEQR

**ON A MOTION MADE BY JOHN VAN ETTEN AND SECONDED BY RAY KELLY, A NEGATIVE DECLARATION WAS GIVEN. ALL IN FAVOR. APPROVED.**

Chairman Deutsch: So, next. Residential storage note.

John Van Etten: It should say that the existing storage building should be used only for residential storage purposes in accordance with the Town of Liberty Code TAPE UNCLEAR

Attorney Garigliano: I think you can even go a little further and say cannot be used for commercial or industrial purposes.

John Van Etten: Okay.

Michael Woods: I wrote it down here a minute ago. Use of storage building on lot 2, that would be specific as well.

John Van Etten: Correct.

Michael Woods: Is for residential purposes only.

Dean Farrand: Residential storage only.

Chairman Deutsch: And

John Van Etten: And not for commercial or industrial purposes.

Michael Woods: Hold on. And not for commercial industrial

Attorney Garigliano: or retail, that's a type of commercial

John Van Etten: Yes.

Chairman Deutsch: Got it.

Attorney Garigliano: I think you have to show that the lot can be developed for a single family house.

Robert Werlau: Before it was subdivided the perc test for my house a good one or no? You want a second one?

Attorney Garigliano: Your septic system is in front of your house right?

Robert Werlau: In the front lawn.

Attorney Garigliano: It's got to be on this one.

Chairman Deutsch: It has to be on the specific lot it's intended to.

Attorney Garigliano: And it's got to be in an area that's not within 100 feet of your well or any neighboring well.

Robert Werlau: Or any neighboring well.

Attorney Garigliano: I'm not sure, I saw one was very visible from the road. I'm not sure where the other one is, but if it's not on your property, so you can just stay back 100 feet from the property line. There's tons of room. And there's one little ledgey outcropping there that you know. You know more about that than we do.

Chairman Deutsch: Anything else?

Robert Werlau: You're just looking for a standard perc test. No design system.

Attorney Garigliano: No, not if it comes back within normal.

TAPE UNCLEAR – ALL TALKING AT ONCE

Robert Werlau: You're just looking for deep pitted and two

Attorney Garigliano: The other thing that since there's no requirement necessarily in our Code, I thought we should add a note to the map, because just among other things acknowledging that Mike did a very good job finding a good location for the driveway and I think there ought to be some lines drawn on the map that access to Airport Road is from this point to this point only so that we don't approve this thinking the driveway's going to be built somewhere and then they build it somewhere else. Because there's no control by this Board once this leaves here. There was probably, Mike, 70, 80 or 90 feet there that would have worked for a driveway, give or take?

Michael Woods: That location to me is specific, I'm not going to change it. TAPE UNCLEAR SEVERAL TALKING AT ONCE

Attorney Garigliano: I'm not worried about you guys. I'm worried about 16 owners from now who decide they want to put it somewhere else.

Robert Werlau: The driveway must remain in location on the map.

Michael Woods: However you want to do it. You want the location shown?

Chairman Deutsch: Only, yes.

Attorney Garigliano: No access to Airport Road.

Robert Werlau: Other than shown on map.

Attorney Garigliano: Other than in an area between point A and point B. I think it can be wider than what's there.

Chairman Deutsch: As shown on map.

Michael Woods: Driveway...

Attorney Garigliano: I don't think you need to talk about driveways, I think we need to say no access to Airport Road other than.

Michael Woods: Other than driveway shown.

Attorney Garigliano: Okay.

Chairman Deutsch: Anything else? Everybody okay with it?

John Van Etten: The application is complete other than the conditions?

Attorney Garigliano: Yes.

Nancy Saucier: Then they will be back September 1<sup>st</sup> with the percs?

Chairman Deutsch: You going to do the perc right away?

Robert Werlau: I can have it done tomorrow.

Attorney Garigliano: Is that the meeting date? September 1<sup>st</sup>?

Nancy Saucier: Yes, 7:00 pm

TAPE UNCLEAR – ALL TALKING AT ONCE AND PAPER RUSTLING

Chairman Deutsch: We'll need new maps with the notes. Okay, thank you.

The following notes shall be on the map for the September 1<sup>st</sup> meeting:

- ❖ The existing storage building on Lot 2 should be used only for residential storage purposes in accordance with the Town of Liberty Code and cannot be used for commercial and industrial purposes.
- ❖ No Access to Airport Road other than from point A to point B as shown on the map.

**CR Menderis LLC**  
Subdivision  
Menderis Road  
SBL 38-1-14 & 15  
Zone: AC #2006-0027

Paula Kay appeared for this project.

Attorney Garigliano: With your packet, you had a letter from Tom. Correct?

Nancy Saucier: It was handed out at the last meeting, I don't know if everyone brought them with them.

Attorney Garigliano: A proposed resolution based upon Tom's letter, it would give guidance to the applicant of the level of review of the remaining open SEQR issue involving wildlife. Paula Kay is here for that.

Paula Kay: I don't really have, I don't have much to add. We had submitted, as you know, the SWIPP services provided by Tim Miller Associates, especially Jim Bates who is no longer with Tim Miller Associates but still working on our project. The Board had a chance to review it, you had a public hearing on the scope of services and TAPE UNCLEAR and your consultant, Tom Shepstone reviewed all the comments from the public hearing and our consultant's survey and we're hoping that tonight you can come to some conclusion as to the scope of services.

Chairman Deutsch: Okay everyone had an opportunity to go over Tom's notes then. And the resolution. Does anyone have any comments?

Attorney Garigliano: The draft resolution follows very closely from Tom's letter with recommendations. There's a word or two change to fit within the..... basically future tense as to past tense but other than that it's pretty close. And I'm sure you looked at it right?

Dean Farrand: I didn't see here, it includes the entire site. not just the portion of the site being built on, but the entire site?

Attorney Garigliano: The proposal that was received from Jim Bates gave details of the area of analysis. It starts with the entire site, identifies subsets of the site for further study.

TAPE UNCLEAR

Attorney Garigliano: It clearly requires that the research of relevant information would be the entire site and the field reconnaissance would be the entire site. And that's what we're expecting. So if we need to make our resolution clearer that it covers the entire site we can do that.

Dean Farrand: Okay, I think we should. The other thing I was reading about, and I spent a lot of time trying to read about these studies, it also calls for considering climate differences. In other words, some kinds of species that are endangered are not prevalent this time of year but they are prevalent in the winter time. I don't see anything in this assessment that takes everything into account.

Paula Kay: In our assessment or in...

Dean Farrand: In Jim Bates.

Paula Kay: I believe

Dean Farrand: I could be missing it, I just didn't see it. I read it a couple times. Did you see anything like that?

Attorney Garigliano: I think it's focused on wildlife.

Paula Kay: The potential impact on wildlife.

Attorney Garigliano: I have nothing to add other than we sent it to Tom and he responded.

Dean Farrand: I guess the blunt question is are we being penny-wise and pound-foolish no looking at biodiversity which is plant life and wildlife. I mean certainly there is no aquatic life that one can dream of up there, but certainly plant life and wild life. Doesn't really make to look at wildlife and then six months from now we'll be looking at plant life because that's the next issue on the block.

Attorney Garigliano: No, no, no, I appreciate that. I mean if you feel that is necessary.

Dean Farrand: Wildlife is a portion of portion of biodiversity, it's not the whole piece.

Paula Kay: I would say that the study is very comprehensive. That their consultant has agreed with many the points TAPE UNCLEAR with the study. And that in fact in studies of the wildlife, we are actually looking at the habitats the wildlife could possibly could be found in.

Dean Farrand: Yeah, but I don't think that's looking at plant life. That's looking at the wildlife's habitat which different than looking at endangered plant life, which is part of the biodiversity.

Paula Kay: Going back to the Court decision. The only issue that the Court wanted to see a harder look at was this issue of the potential impact on threatened or endangered species and I think that the Jim Bates study will do just that in a very comprehensive manner.

Dean Farrand: Yeah. I'm just again, I started it by saying being penny-wise and pound-foolish. It's just that if we're going to do it, do it once perhaps, but the only other thing I had to ask was, remember at our last meeting we had on this there were a number of residents in the area that brought up species that they say they found, and I don't mean any disrespect to anybody in the audience, but they said they found it, are part of that.

Attorney Garigliano interrupted: Part of what the study in paragraph one of the proposal would entail would be reviewing our record, our file and our transcript of the public hearing. So they would certainly be aware of that. That doesn't mean necessarily that they will deal with it, but they have to review it. I guess in terms of biodiversity if this is an issue where you think that that's something we need to add, that's fine. We certainly have the right once we get the study to ask for more. We're not bound by...

Dear Farrand interrupted: No, I'm just bringing it up now so it's not at the end of the game and they say well. You know I was up here being up front. If I were doing the study I would do it complete, but that's your choice.

Paula Kay: It's actually your choice.

Attorney Garigliano: It's our SEQR and it is our choice. The Court decision was very specific in terms of remaining open issues. They've been addressed. To some extent the question is whether or not the extent of that proposal is sufficient. And what I said the first time we looked at that proposal is, even if we say that proposal is sufficient, when you get the study and review the study, you have other questions, you have other concerns, the door is not closed to asking those questions at the time the study is received. All I can do from my standpoint, since this is not an area where I have fundamental expertise, it rely on Tom's reaction to their proposal which is contained in that memo of I believe, what? June 29<sup>th</sup>.

Dean Farrand: Yeah, specific to wildlife, it's okay. Again as I started reading about biodiversity, because I'm not in any way, shape or form an expert, and wanted to learn a little bit.

Attorney Garigliano: I think again, you need to get the study and see what it says and I'm sure Paula is hearing your concerns loud and clear and we'll pass them along.

Dean Farrand: Okay, cool. That's all I meant.

Chairman Deutsch: Anyone else? Anybody?

Attorney Garigliano: Now how do you want to deal with the resolution. We can add clarifying language indicating that it will be a study of the entire site. We can also add language if you wish indicating that the study be comprehensive enough to include habitats. I think it's already mentioned though.

Chairman Deutsch: Actually it is. It was mentioned, plant species.

Attorney Garigliano: I thought it did.

Dean Farrand: I'm sorry.

Chairman Deutsch: Yes, it mentions it right there (pointing to spot in resolution). I thought it did TAPE UNCLEAR I remembered seeing it. Yeah including hemlock forests, which is plant life. I think it was pretty well covered there. I thought it was covered.

Attorney Garigliano: So we'll have to add language saying it's the entire site.

Chairman Deutsch: So unless there's something more specific, I think this covers what your concerns were. Is that a yes or no on that?

Dean Farrand: Yeah, paragraph one, pretty much.

Chairman Deutsch: And then we can add "entire site" when we're talking about field reconnaissance.

Dean Farrand: Yes.

Chairman Deutsch: Everyone okay with that?

Several Members: Yes.

Chairman Deutsch: Okay then I think we should do that with just that one change. Did you have an opportunity to see the resolution? (directed at Paula Kay)

Paula Kay: Yes.

Chairman Deutsch: Okay do we thoroughly change it?

TAPE UNCLEAR

Dean Farrand: In paragraph 3? I see it in 2, I don't see it in 3.

Attorney Garigliano: I might just ah... the scope of services in Tom's letter.

Dean Farrand: In 2 right?

Attorney Garigliano: Yeah, that's right. I mean when they talk about things using the property, I mean I don't see how you can read it anyway other than if they're talking about the entire property.

Dean Farrand: I don't either, but it just makes it crystal clear.

Attorney Garigliano: And certainly the record will be crystal clear and certainly Paula's here for comments.

Paula Kay: I've got it.

**ON A MOTION BY DEAN FARRAND SECONDED BY JOHN VAN ETTEN THE RESOLUTION FOR DETERMINATION OF THE SCOPE OF SERVICES FOR A BIOLOGICAL SURVEY OF THE MENDERIS ROAD SUBDIVISION WITH THE CHANGE IN PARAGRAPH TWO OF THE WORD "ENTIRE" BEING INSERTED BETWEEN "THE" AND "PROJECT". APPROVED. FIVE IN FAVOR , APPROVED.**

**ON A MOTION BY DEAN FARRAND AND SECONDED BY RAY KELLY, THE MEETING WAS ADJOURNED AT 8:00 PM.**

Respectfully submitted,  
Nancy Saucier, Planning Board Secretary

The foregoing represents unapproved minutes of the Town of Liberty's Planning Board from a meeting held on August 4, 2009 are not to be construed as the final official minutes until so approved.

  X   Approved as read