

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
April 27, 2020**

Present: Chairman Thomas LaPerch; Vice Chairman David Rush; Boardmembers Jim King, Michael Hecht, Lynne Eckardt, Eric Cyprus; Town Planner Ashley Ley; Town Attorney Willis Stephens; Secretary Victoria Desidero. Absent & Excused: Boardmember Dan Armstrong,

**THIS MEETING WAS HELD VIA ZOOM VIDEO CONFERENCE**

**PUBLIC HEARINGS:**

1. **NORTHWOOD TREE CARE, 25 Fields Lane & 465 North Salem Road** – This was a Public Hearing to Review an Application for Site Plan Amendment, Conditional Use Permit and Special Use Permit. Peder Scott of PW Scott Engineering and Attorney Charles Martibano represented the applicant. The motion to Open the Public Hearing was introduced by Chairman LaPerch, seconded by Boardmember Eckardt and passed all in favor.  
**Chairman LaPerch:** Who is representing this, please?  
**Mr. Scott:** Peder Scott and Charlie Martibano.  
**Chairman LaPerch:** Welcome guys.  
**Mr. Scott:** I don't see Charlie, but he is there.  
**Mr. Martibano:** It's Charles Martibano for the applicant but I am having a great deal of difficulty hearing you. I don't know. Can you hear me clearly?  
**Chairman LaPerch:** Yes, we can hear you.  
**Ms. Ley:** Yes, we can.  
**Chairman LaPerch:** Charlie, are you going to be doing the presenting?  
**Mr. Martibano:** Well, yes but Peder Scott is also on the application tonight and he is present so any technical questions I am certain he can answer those for you. From our perspective, I think you've already had a presentation... I think this is a second session of the Public Hearing if I am correct?  
**Chairman LaPerch:** Correct.  
**Mr. Martibano:** I couldn't hear you, so I am going to assume that was correct. So, from our perspective, tonight we are here to answer any questions that members of the Board may have or members of the public may have and to respond to a couple of issues I think from the last appearance. So, unless you would like Peder to give a thumbnail sketch of the application we can proceed the way that I just described.  
**Chairman LaPerch:** Well, actually, I would like Ashley to walk us through this because this started off as a Notice of Violation, correct Ashley?  
**Ms. Ley:** I believe so. At this point the way to remedy the violations is to seek Site Plan approval and Conditional Use Permit and Special Permit approval before the Planning Board and the Town Board. The way the application is laid out at this point it avoids the need for any variances.  
**Chairman LaPerch:** OK. Charlie, can you hear us?  
**Mr. Martibano:** Yeah, unfortunately I am having a great deal of trouble. I don't know if my bandwidth is too small because I have used this before, and it has worked out, so I feel at a little bit of a loss. I am hoping that Ashley said that there are no impediments to moving forward but I don't want to put words in her mouth, obviously.  
**Ms. Ley:** You may want to try turning off your video and that may free up some bandwidth and just use audio.  
**Mr. Martibano:** (Inaudible) Let me try my iPhone. Let me try that. How's that sound?  
**Chairman LaPerch:** OK. I'll give you a minute to adjust here. Charlie, we can hear you just fine.  
**Mr. Martibano:** Well, that's wonderful. OK and I just heard Mr. Chairman just fine. So are there any specific questions from members of the Board or the consultants...  
**Chairman LaPerch:** Yeah, let me start off, Charlie. There were a couple of e-mails going back and forth about concerns about whether a variance was needed on this and I think that was cleared up.

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I'd like Ashley or yourself to confirm that and secondly, the issue about the resolution about the height of the wood pile chips moving forward. I think those are the only two I have at this point. So, can we address those?

**Mr. Martibano:** On those, if you can hear me... do you want me to start is that good?

**Ms. Ley:** Yes.

**Mr. Martibano:** In any event, this is now since the wood mill is now a permitted use; it's not governed by the requirements of the variance so those height limitations would no longer apply. This being said, there are height limitations that might apply with respect to regulations (inaudible) by NYS DEC (Department of Environmental Conservation). Just to cut to the chase to make life easy, to make life easy to the extent that those regulations would apply to this use obviously we would comply with those requirements.

**Chairman LaPerch:** OK and there was an e-mail going back and forth today about Mr. Lord, I don't know if he is here, but I am going to jump in in case he isn't... about an easement issue and a basin?

**Mr. Martibano:** Yes, Mr. Chairman, I can respond to that as well. We've gone back and forth with respect regarding the design and the elements or components for the infrastructure for that using a spreader so that an easement may not be necessary and I think the last exchange of correspondence indicated that if we leave the infrastructure at its location as presently planned, he would like us to get an easement with the adjoining property owner and that may be possible. From our perspective, we are going to do one of two things to satisfy this requirement. Either we will get an easement with the adjoining property owner which is a relatively small easement: it's only like 15 by 20 or something of that nature or, in the alternative, we'll move the infrastructure away thus negating the need for the variance. So, either way we will comply.

**Chairman LaPerch:** OK. Listen to me, the second part of moving the basin is a bigger lift. I mean is your client prepared to do that if he can't get the easement?

**Mr. Martibano:** I think you bring up a very, very valid point and obviously that is something we have to consider but the fact of the matter... If, for example, the adjoining property owner wouldn't cooperate with us we don't really have a choice and we would have to do exactly what has to be done so... Yeah, we will satisfy the requirement one way or the other.

**Chairman LaPerch:** Good enough. I have no further questions. Ms. Eckardt, do you have any questions please?

**Boardmember Eckardt:** I do and Tom, since this is a Public Hearing, I mean I know it is difficult to do it this way but is there anyone who is going to comment who needs to know a little more about this project, do you think?

**Chairman LaPerch:** Sure, I think that's a fair comment, Lynne, so maybe I will bounce it back to Peder and have him give us an overview of the project.

**Mr. Scott:** Sure, very quickly 25 Fields Lane consists of actually two separate lots: lots 78.2 and 73. We are working on a portion of the lot which is 18.5 acres in size in the OP-1 Zone. As you'll see on the site plan, there is a large vacant area to the east which is not being impacted by our proposal. This project was approved back in 1998 and basically it consisted of a similar use, mulching operation. Since that time, two tenants have occupied the site and one stores sand products and the other one continues the mulching operation limited to the size of what was approved back in the late 90s. Accordingly, we have a project where we are expanding the use on the site to the south toward Westchester County line and a power line and within that area of expansion we're proposing additional wood storage areas and additional sand processing areas as well. But the overall use of the wood mulching which is covered under "wood mill" is fully conforming with the regulations in terms of a 5% limit on development of a lot and the facility considered the sand materials is under "light manufacturing" and that is also conforming with the regulations both individually and total development of the property itself. We are not building any

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buildings; we are just creating more process and storage areas on the rear of the property. And that's about it.

**Chairman LaPerch:** OK that's a pretty good overview. Thank you Peder. And, Lynne, that was a good point. I forgot that should have been done in the beginning. So, do you have any questions?

**Ms. Eckardt:** I do, and I think it is hard to... I mean I feel sorry for the public on this, but I am really glad we are having this meeting so thanks, Tom. My questions... I do have concerns about how high the mulch piles will be. Does the company currently comply with DEC regulations and do they file with the DEC every March? Do you know?

**Mr. Scott:** If I could answer that. The regulations were adopted in 2017 and all the operations pre-dates all that so we're a grandfathered activity and currently the operation is so small that we are under the 10,000 cubic yard requirements. Only when we expand it would we be moving on into a category of between 10,000 and 20,000... 25,000 cubic yards of which our recording would start to be initiated. So, currently, we're too small; we're under the threshold.

**Boardmember Eckardt:** And how would the Town... how would we find out in the Town when you do get to the next level of operation?

**Mr. Scott:** Well, I think for all parties concerned the best process for us to do is to register the project and by registering that means you are between 10,000, 25,000 cubic yards. If you exceed 25,000 cubic yards, then you have to get a permit so we would be just registering. Now we do qualify to be a permitted activity. We have all the stormwater management activities in place so we are fully conforming if we had to... for expansion purposes and we will again... We're going to get some permits and come back to you at final approval with a registration from DEC at that point in time. That starts our record keeping and if we exceed the 25,000, we will automatically transition to a permitted operation under 361-43 DEC. And so currently we are beneath the threshold and the expansion will conform to it, to the registration and we have the ability to go beyond it if we have to.

**Boardmember Eckardt:** OK... will...

**Mr. Scott:** If I may bring up one thing... no matter what we do there are certain requirements we have to follow with DEC about pile heights and if you had a brief moment... If we ground the material just once or we have raw material, we are allowed to go 25 ft. tall per the DEC and our base has to be about 30 ft. wide. If we double grind the piles of mulch, we are limited to 50 ft. tall so in any operation that you have your first processing is a single... you grind it once and you store it. And then you grind it again but it's got to weather and so we don't normally... we would have separate piles for single grinding and double grinding, and they'll conform with the regs.

**Boardmember Eckardt:** OK. My concern is more at an enforcement level for the Town obviously because... and it will be a DEC enforcement issue but I know that things in Southeast tend to grow like topsy sometimes so it is a future concern of mine. Also, because of spontaneous combustion and mulch fires and that's why I am asking these questions. I know I read that one fire protection engineer feels that these operations do belong in industrial park settings where there is access to public water supply so I do have concerns about this and the DEC Website was very helpful so thank you. My other question and I want to credit Jim King on this because he came up with this and I apologize in advance if Jim is asking this question but he did ask about dyed mulch and I think that is really a concern because of wetlands, etc. You had assured us before that they do not dye the mulch and they will not be dying mulch. Is that correct?

**Mr. Scott:** That is correct and then we put that on SY-1 there is a limitation on the project.

**Boardmember Eckardt:** Can that be put on the Plat as well, Ashley?

**Mr. Martibano:** Sure.

**Ms. Ley:** It is on the Site Plan. It's not a subdivision application but it can also be in the Special Permit referral.

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**Boardmember Eckardt:** OK. As I said I do have concerns going forward. The reason this is in front of us is the violation, so I think this is one to really watch. But I appreciate your time and that's all I have, Tom, thank you.

**Chairman LaPerch:** That was good stuff Lynne, thank you. Great questions and thank you for slowing me down as always. Mr. King, how are you doing?

**Boardmember King:** I am well, thanks, Mr. Chairman and I have no further questions at this time.

**Chairman LaPerch:** Good. Well, thank you. Mr. Cyprus?

**Boardmember Cyprus:** I am good as well. Lynne articulated my concerns very well. I share them.

**Chairman LaPerch:** Thank you, Mr. Rush, how are we doing tonight?

**Boardmember Rush:** I am doing fine. Mr. Hecht is in the house too just to let you know.

**Chairman LaPerch:** Yes, he is here. OK.

**Boardmember Rush:** If you want to let him have a shot.

**Chairman LaPerch:** Yeah, sure if you want to bounce back, Mike are you available? Any questions?

**Ms. Ley:** I had to unmute him. He should be OK to answer now.

**Boardmember Hecht:** Just a quick question. Do we have any Town limitations on the heights of the piles that overrides the DEC limits?

**Ms. Ley:** Yes, you can. Because this application is a Special Permit use by the Town Board, the Town Board can limit the height of the piles. The draft recommendation from the Planning Board to the Town Board that the Planning Board is going to be considering tonight includes a recommendation that the piles be capped at 15 ft.

**Boardmember Hecht:** Yeah, I was going to suggest that only because of the other mulch piles that are on Route 6 as you go out towards Connecticut that got really high in the past.

**Chairman LaPerch:** Yes. Good point.

**Boardmember Hecht:** So, I am good with that. That was my only question.

**Chairman LaPerch:** Thanks, Mike for joining us. David, back to you.

**Boardmember Rush:** Ashley, on that point how does that get regulated? Does somebody put in a stick that the Code Enforcement can go by and see the stick or how do you enforce that?

**Ms. Ley:** It would be enforced by the Code Enforcement doing an on-site inspection.

**Boardmember Rush:** All right. The only other question I had is I don't think that when we talked about this and, Peder correct me if I am wrong, there are no residential properties adjacent to this or there are?

**Mr. Scott:** No, we are surrounded by... while they are residentially Zoned there are horse farms basically to the east and across into Westchester there's two horse farms, riding academies per se, and then we've got Brewster Transit and the rental in front of us... the rental facility between us and Fields Lane.

**Boardmember Rush:** Well, I don't know if any of those people are here tonight but there may be an acoustical concern with some of the operation and I don't know if that has been addressed. If there's the hours or whatever... that's all.

**Mr. Scott:** We put hours of operation on the drawing... a limit on that... in the Statement of Use as well.

**Boardmember Rush:** OK but the equipment... we don't have any performance data on that... how many decibels it puts out. It has got to perform within the Town's sound ordinance, right?

**Mr. Scott:** Yes, we did a noise study a really long time ago... in our first submission we had a noise study...

**Multiple people talking.**

**Boardmember Rush:** So, you are not concerned that any of these (Multiple people talking)

**Chairman LaPerch:** David, excuse me. Charlie can you mute yourself? Thank you. Go ahead David. I am sorry to interrupt.

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**Boardmember Rush:** No, no. I just want to make sure that we don't have any concerns that we are exceeding anything with this operation. That's all.

**Chairman LaPerch:** That's a fair point I think a very valid point and that's why we have the Zoning enforcement and everything is being memorialized on this plan, correct Ashley, in terms of what we are looking to get out of this?

**Ms. Ley:** Correct.

**Chairman LaPerch:** OK. At this point it's a Public Hearing. Just bear with me, if you have a question... I am not sure how to do this but I would like to get your name for the record; it is recorded but Victoria is taking names down so if you can slowly state your name for the record, I would appreciate it. Now I am going to hit the chat area here...

**Ms. Ley:** Right, so there is one in there from sjones and that question is: "what was the violation that was initially reported?"

**Chairman LaPerch:** Peder?

**Mr. Scott:** Um we were exceeding the...

**Ms. Desidero:** I'm sorry. I need the name of the person. Sjones is not enough for me and I unmuted him or her so if you could just please let them ask the question?

**Chairman LaPerch:** OK. Sure.

**Ms. Desidero:** Thanks.

**Sally Ann Corsaro:** So, my name is Sally Ann Corsaro.

**Chairman LaPerch:** Welcome.

**Ms. Corsaro:** Thank you. We live at 355 North Salem Road. My first question was what was the original violation that was reported?

**Mr. Scott:** If I may respond, Peder Scott, the engineer. We were exceeding the size of the allocated mulching area in a tenant approval document that the Building Department had.

**Ms. Corsaro:** I see. What are the hours of operation that are proposed?

**Mr. Scott:** Yes, it says from 7 to 5 o'clock and grinding and chain saw use is limited to 9 to 3:30.

**Ms. Corsaro:** What days of the week? Monday through Friday only?

**Mr. Scott:** We have it Monday to Saturday.

**Ms. Corsaro:** The hours on Saturday are the same: 7 to 5?

**Mr. Scott:** Yes.

**Ms. Corsaro:** So that's six days a week from 7 to 5?

**Mr. Scott:** Yes. That's not mulching though. That's just moving materials.

**Ms. Corsaro:** Right and what are you anticipating being the increase in truck traffic?

**Mr. Scott:** Well, basically the operations been moving ahead for over two years and so basically with the expansion of the facility it is more of a storage requirement than operational... the truck trips are pretty much staying the same. Number of employees are staying the same and the operation is more or less legitimatizing this application; where we are storing things, specific that is to where we are putting containers used by distribution of the sand and the mulch is being formalized within rail systems so they can't migrate over time. Also, we took all the mulching operation and moved it to the west away from North Salem Road by a distance of about 400 ft., so we are actually moving everything away from your property line.

**Chairman LaPerch:** OK

**Mr. Scott:** If I may clarify one more thing so actually all the processing is even moved farther away to the far western portions of the site and if you look at the site plan you will see all we are doing is storing mulch... is being stored toward a central portion of the property and to the west as well. So that entire wood mulching operation is moved to the west and you'll see a little weird triangle shape there... that's where we are doing our processing. And that is adjacent to the Brewster Transit mix... their western properties.

**Chairman LaPerch:** OK. Any other questions Mrs. Cosaro?

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**Ms. Corsaro:** Well, I'd like to make a comment. I don't think it's a question per se. I think that the residents of North Salem Road and Sherry's Lane have certainly endured a dramatic increase in the industrial traffic that comes through here to the point where our windows rattle and we are woken up early in the morning by trucks coming in and out. The noise is coming from the property that we are considering... that you're considering right now and adjacent properties is absolutely impacting the quality of life that the people have in this part of Town and I will say with no disrespect to the members of the Board because I know that history precedes you that there are people in this area who feel that the Town has left us out and who is really not concerned about the needs of residents in this portion of Town. I say that with no disrespect.

**Chairman LaPerch:** OK. Well, thank you for your comments. Thank you for joining us tonight. Do we have another question from the public at this point?

**Ms. Ley:** The question from Dawn and I just unmuted her.

**Chairman LaPerch:** Thank you.

**Dawn Curran:** Hello. My name is Dawn Curran. My husband Brendan Curran and I are both in on this meeting and we want to just reiterate... we are neighbors of Sally and we feel we are very like-minded and agree with all of her comments and would appreciate your oversight in this area. Because we are a residential area predominantly and the mixing of commercial businesses within our neighborhood and so close to our homes is really impactful and we also hear the trucks and the noise on a daily basis. It's not great and it just feels like it continues, and we would hope that your attention would stay here and keep it from growing further with future commercial growth.

**Chairman LaPerch:** Thank you. Could you spell your last name for Victoria if you don't mind and state your address?

**Ms. Curran:** I did not give you my address. I apologize. Its Dawn and Brendan Curran (spelled out). We are right around the corner on North Salem Road: 343 North Salem Road and I don't know to whom this should go but I would also comment that we did not know about this meeting. I only found out from Sally and Lou. I don't know why that happened, but it wouldn't make sense that we are right next door unless there is a measurement and we fall just beyond it, but we are very close.

**Chairman LaPerch:** Well it was publicly noticed also Dawn so we wouldn't allow them on if it was not properly noticed so I'm not sure whether you fall within the notification zone but it was properly noticed in the paper and I don't know where the other one falls. But thank you for your comments and for joining us tonight.

**Ms. Curran:** Thank you.

**Chairman LaPerch:** Ashley, anybody else?

**Ms. Desidero:** Mr. Chairman, maybe you could just remind people that if they want to ask a question, they need to just raise their hand.

**Chairman LaPerch:** OK. Do you see anybody? I'm sorry I can't see everybody here.

**Ms. Desidero:** I don't see anybody else. Do you Ashley?

**Chairman LaPerch:** Anybody else out there? Ashley? For some reason my board isn't showing me everyone who is here so I am at a loss here. I apologize.

**Ms. Ley:** There is no one else raising their hand and there are not chats. There is one new question from a Boardmember... Boardmember Rush.

**Chairman LaPerch:** OK. Sure.

**Boardmember Rush:** Yes, I think we just mentioned that the height of the pile was limited to 25 ft. correct?

**Ms. Ley:** That was the DEC regulation. The proposed resolution has a maximum height of 15 ft.

**Mr. Rush:** I just wanted to make everybody clear that it's 15 in the resolution.

**Chairman LaPerch:** It's in the resolution correctly.

**Ms. Ley:** It looks like Sally has another question. I am going to unmute her.

**Ms. Corsaro:** Are they currently operating on Saturday from 7 to 5 pm?

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**Mr. Scott:** Peder Scott. Yes.

**Ms. Corsaro:** So, what is the anticipated increase in decibel level from what is present to what is anticipated with your increased production?

**Mr. Scott:** Well, as I said before our machinery remains the same. Our storage area is expanding, the area is getting greater so the noise of the machinery shouldn't change except for the fact that we are bringing it 400 ft. further away and because sound is related to distance squared, you will see a significant change in the machinery from that of the chain saw cutting and mulching operation which now are taking place more than 400 feet away farther than they were before. But we have another process going on there which is sand distribution and that is remaining where it is now and all it uses is a front-end loader which is a lot less noisy per se than mulching machine and that of chain saws. So the net effect is that we are reducing the noise toward the North Salem Road.

**Ms. Corsaro:** And am I correct that I think I heard you say you are not anticipating an increase in the truck traffic moving in and out. Is that correct?

**Mr. Scott:** Yes, but if I may add one thing. So our trucks are based on demand so basically you will have slow periods and you'll have demand periods but we there are no new additional trucks coming there. Its just that basically some days you may have six or seven trips and some days you may have one trip. It's really based upon distribution at that point in time, not processing.

**Ms. Corsaro:** Thank you.

**Chairman LaPerch:** Thank you. David, do you have a follow up question?

**Boardmember Rush:** No. I just think I am concerned for those residents that just spoke with regards to certainly the sound. I thin Saturday at 7 am to have the machines start... if they didn't mind starting at 8 maybe that would make them feel a little bit better. I don't know.

**Sally Corsaro:** Yes, it would.

**Boardmember Rush:** What's that Sally?

**Ms. Corsaro:** It absolutely would and 9 would be even more welcome.

**Boardmember Rush:** I'm just saying we want to be nice neighbors but the acoustics that may be something that is enforceable and as long as we mention that they are in compliance then that's what we've got. No further questions.

**Chairman LaPerch:** OK. Do I have any other public comment at this time? Ashley, see anybody?

**Ms. Ley:** I don't see any chats or raised hands.

**Chairman LaPerch:** OK. Well, at this point then Board members I would like to make a motion to Close the Public Hearing.

The motion to Close the Public Hearing was introduced by Chairman LaPerch, seconded by Boardmember Cyprus and passed by a roll call vote of 6 to 0 with 1 absent.

**Chairman LaPerch:** The next action item: I'd like to make a motion to adopt a Negative Declaration.

The motion to Adopt a Negative Declaration for the project known as Northwood Tree Care was introduced by Chairman LaPerch, seconded by Boardmember King and passed by a roll call vote of 6 to 0 with 1 absent.

**Chairman LaPerch:** The fourth action is I'd like to make a motion to refer the application to the ARB. Ashley, the reason this is being referred?

**Ms. Ley:** The reason is it is a Site Plan Amendment that does involve quite a bit of earth work or storage of materials. I think it is important that it goes to the ARB.

The motion to Refer the Application to the ARB was introduced by Chairman LaPerch, seconded by Boardmember Eckardt and passed all in favor

**Chairman LaPerch:** The final action is I'd like to make a motion to refer this plan to the Town Board for a Special Permit.

**Ms. Ley:** One thing for discussion. So the draft resolution right now includes three recommended conditions for the Town Board's consideration. One is "Wood, wood chip, and wood mulch piles

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shall not exceed 15 feet in height; Two: “The wood mill operation, including all processing and storage areas, shall not exceed 5% of the lot area, or 40,293 square feet;” and “Materials, materials processing, and equipment shall be located in the outside storage areas designated on drawing sheet *SYI Site Plan – Phase I & II*, prepared by PW Scott, dated 3/4/2020. I’m wondering based on the comments that the Board received this evening if you wanted to add an additional condition that mulch operations on Saturday... or specifically you could say chain saw operations and mulching shall be limited to 9 am to 5 pm.

**Boardmember Cyprus:** Well, the noisy operations are 9:30 already? Correct me if I am wrong?

**Mr. Scott:** (Inaudible) operations are 9 to 3.

**Ms. Ley:** 9 to 3? OK

**Chairman LaPerch:** Discussion. I am not just going to let this go here. I’d like to talk about this. Let’s go around the Board again here. So, Lynne your thoughts please.

**Boardmember Eckardt:** I really think the weekends are really important to our residents and the less noise the better. And so I would be in favor of something more stringent than what is going on now. I don’t know whether they do much grinding, I assume they do, and there are some other loud things so I would be in favor of something more restrictive (inaudible).

**Chairman LaPerch:** Thank you. Mr. King?

**Boardmember King:** Yeah, I don’t have a problem with I guess the drop off and the pickup but maybe the chain saw, limiting that, especially on a Saturday, I guess.

**Chairman LaPerch:** OK. Thank you. Mr. Hecht?

**Boardmember Hecht:** Same comments. Just (inaudible).

**Chairman LaPerch:** You are breaking up but I think you are in agreement with the sentiments so far. Mr. Cyprus?

**Boardmember Cyprus:** I am fine with whatever we decide. I was just trying to be clear that it wasn’t 7 now. But if the Board wants something later than 9 for the residents, I’d be for it.

**Chairman LaPerch:** Mr. Rush?

**Boardmember Rush:** I do too. If 9:30 were a possibility for Saturdays for sure.

**Chairman LaPerch:** I hear the sentiment of the Board. Ashley, can you tell us what we are going to do in terms of the motion in terms of the hours that we are proposing here?

**Ms. Ley:** Sure. So there was one more comment from a member of the public in the chat that says: “the drop offs and pick ups are very loud.” So I am not sure if the Board wants to include that in the Saturday as well?

**Chairman LaPerch:** Well, I have a little problem with that. It’s business. The property is zoned, they have been in business. They came for a violation and in terms of the noise it is part of doing business. I think we heard the neighbors’ concerns about the operation hours and we responded but to regulate the noise of trucks... I think that is going to be a little beyond our scope here. So, I have a problem with that. Unless I hear back from the Board. We hear the operation issues for 9 but just because the trucks are loud, then you’ve got a problem with the whole Town. You’ve got to go around Town limiting people’s... controlling noises on trucks. I don’t personally agree with that so unless I hear from my Board members, I’m not sure I would add that to the conditions other than the hours of operation. Any comments?

**Boardmember Rush:** Yeah. This is David. I don’t disagree with you but I think Saturdays are somewhat of an exception. You know? And if we have people who are residents that about the property... I know it’s what it is... is 9:30 too much to ask just for those residents on a Saturday? That’s all.

**Chairman LaPerch:** I mean then... David, my point is then there’s other businesses on that strip contributing to the noise so to restrict this one business, I don’t think it is fair. I mean I can name three other businesses there that are probably louder. So, I’m not sure why we are pushing the bar and making them to a higher standard than anybody else on that strip at this point. We adjusted the hours to 9 but now you are basically asking their business to... you know... not to come until 9:30

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here. This is Saturday. They still need to be open for business. You are kind of restricting their business hours in my opinion.

**Boardmember Rush:** I don't think we are recommending that they can't do business until 9:30. I think we are talking about noise related things.

**Chairman LaPerch:** If the trucks aren't allowed in until 9:30 that kind of shoots the morning. I would think that most of the people that are using their products are in there early and I think 9 is fair but we keep pushing the bar back. I think that is restrictive issue in their business and I am not sure if that's our purview. There's other businesses out there that make a lot of noise themselves.

**Boardmember Rush:** No, I understand. I think it's... again I go back to the sound ordinance. If we have issues then it becomes a violation. Then they have every recourse.

**Chairman LaPerch:** That is their recourse, David. I couldn't agree more with you. I think it's the enforcement more than anything with everybody in our Town with compliance. Who else do we have on the Board? We have the hours changed, right Ashley?

**Ms. Ley:** Right it would be changing the hours on Saturday for grinding, mulching, chipping and chain sawing would be limited from 9 to 3... would only be permitted from 9 to 3.

**Chairman LaPerch:** OK

**Boardmember Cyprus:** But that is already what it is all week, correct? I just want to make sure I am understanding. We didn't change anything?

**Mr. Scott:** That is what it is during the week. That's correct.

**Chairman LaPerch:** That's correct, Peder?

**Mr. Scott:** Yes, that's correct.

**Boardmember Cyprus:** So, what Peder originally proposed, I believe is 7 to 5 Monday through Saturday hours of operation; 9 to 3 for mulching and chain saws or grinding and chain saws.

**Mr. Scott:** That is correct.

**Chairman LaPerch:** That is correct. OK. So where we left off, I believe, is I had a motion on the table. Is that correct?

**Ms. Ley:** Yes.

**Chairman LaPerch:** OK. We are done here. So my last motion is... Let me restate it then. I'd like to make a motion to refer this application to the Town Board for a Special Permit as written plus the additional language that Ashley is going to read right now as added to this.

**Ms. Ley:** Grinding, mulching, chipping and chain saw use shall be limited from 9 am to 3 pm, Monday through Saturday

**Chairman LaPerch:** And I'll make that motion.

The motion to Refer the Application to the Town Board for a Special Permit was introduced by Chairman LaPerch, seconded by Boardmember King and passed by a roll call vote of 5 to 0, with 1 absent, Boardmember Hecht not audible and Boardmember Eckardt saying I wasn't thrilled with some parts of this, especially with the traffic noise, but I will vote yes on this.

**Chairman LaPerch:** Victoria, anything that this applicant needs to do? Ashley, any next steps?

**Ms. Ley:** So, they need to file their applications with the ARB and with the Town Board for the Special Permit.

**Chairman LaPerch:** Thank you, Peder. Thank you, Charlie. Good night. OK, this is a second Public Hearing.

2. **NYSEG LINE 803 REBUILD** – This was a Public Hearing to Review an Application for a Wetland Permit. Michael Kopansky, Gideon Oppong-Darko and Scott Reinhart represented the applicant.

The motion to Declare Lead Agency for this application was introduced by Chairman LaPerch, seconded by Boardmember Cyprus and passed by a roll call vote of 6 to 0 with 1 absent.

The motion to Open the Public Hearing was introduced by Chairman LaPerch, seconded by Boardmember King and passed all in favor.

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**Chairman LaPerch:** Who is representing this, please?

**Mr. Kopansky:** Good evening all. This is Mick Kopansky from NYSEG. I am the Environmental Permitting Manager. We also have Gideon Oppong-Darko who is the project manager and Scott Reinhart who is Public Outreach Representative.

**Chairman LaPerch:** Welcome. Thank you. Please describe the project to the public so in case they haven't heard about it, so they know what is going on here.

**Mr. Kopansky:** Sure. Hopefully everyone received the project information packet we sent out but, if not, a brief synopsis of the project: NYSEG is proposing an approximate three mile of a 46 kve transmission line rebuild. The rebuild would be to replace aging infrastructure and upgrade the line to current electric standards. And it would begin at the Kent substation, which is in the Town of Patterson, it would move directly south into the Town of Southeast just northeast of the Middlebranch Reservoir there. There's about one and a half miles in the Town of Southeast.

**Chairman LaPerch:** OK. And this is a general kind of an upgrade of the system, correct Mick?

**Mr. Kopansky:** Correct.

**Chairman LaPerch:** Similar to what you did along Route 6 from the substation into the Village of Brewster?

**Mr. Kopansky:** Yes, it would be similar to that.

**Chairman LaPerch:** And did you take the advice of... I forget what Boardmember... I think it was Lynne... asked to make sure all the adjoining property owners are aware of what's going on because we had some unhappy residents who weren't aware of it and they were appalled by the height of the new poles and things like that. That's some of the comments we initially heard back. Did you do the mailings to the property owners?

**Mr. Kopansky:** We did. Yes.

**Chairman LaPerch:** OK and specifically in our Town, correct?

**Mr. Kopansky:** Correct.

**Chairman LaPerch:** And I believe there was a question last meeting about delaying the start of this. Has that been agreed to?

**Mr. Oppong-Darko:** Yes, this is Gideon and yes.

**Chairman LaPerch:** Well thanks, Gideon. I have no further questions, so I am going to open it up to our Board and then we are going to open it up to the public. Lynne, do you have any questions for this application, please?

**Boardmember Eckardt:** We went through a lot of them last time. I just want to... looking at the map again. So, this is not really running along any roads, is that correct? It looks like it is through Tilly Foster and in there?

**Mr. Kopansky:** Correct, it's all... there is not that much roadside. If it does, it crosses roads... perpendicular but it does not run parallel to the roads.

**Ms. Eckardt:** Also, so people understand, are the poles going in the same height and are the old poles being removed?

**Mr. Oppong-Darko:** In Southeast where the existing is too short but resiliency purposes the pole size may change but it will not be significant. Everything is being done so that they can resist the environmental issues like wind and what have you but it will not be that much different from what is in existence and except for (inaudible) it is too slow for (inaudible) then the height has to be adjusted.

**Boardmember Eckardt:** And old poles that are not in use will be removed?

**Mr. Oppong-Darko:** Exactly.

**Boardmember Eckardt:** All right. That's it for me, Tom. Thank you.

**Chairman LaPerch:** Good questions as always, thank you. Mr. King, any questions sir?

**Boardmember King:** No questions as long as they remove the old poles, I am good to sign off.

**Chairman LaPerch:** Good. Thank you. Mr. Hecht, are you with us sir?

**Boardmember Hecht:** Yes, I am. No questions.

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**Chairman LaPerch:** Mr. Cyprus?

**Boardmember Cyprus:** No questions. Thank you.

**Chairman LaPerch:** Mr. Rush?

**Boardmember Rush:** All good.

**Chairman LaPerch:** I do not have any further questions so at this point, I'd like to open it up to the public. Once again, please bear with us, please state your name and spell it if you could as well as your address for the record. I do not see anybody. Ashley, can you help me out. Is there anyone with questions?

**Ms. Ley:** There is nothing in the chat and I'm not seeing anyone with a raised hand.

**Chairman LaPerch:** OK, that's fine. I will just give it another second here in case someone is challenged like me to figure things out. Any of the Board members see anyone with raised hands? Nope. OK. So, at this time, I will make my first motion.

The motion to close the Public Hearing was introduced by Chairman LaPerch, seconded by Boardmember King and passed all in favor.

The motion to Adopt a Negative Declaration for the application known as NYSEG Line 803 Rebuild was introduced by Chairman LaPerch, seconded by Boardmember Cyprus and passed by a roll call vote of 6 to 0 with 1 absent.

The motion to Grant a Wetland Permit was introduced by Chairman LaPerch, seconded by Boardmember King...

**Boardmember Eckardt** said a quick question on this before I vote. I believe (Town Councilman) John Lord did ask a question that just came up that he wanted to know about a DEP (Department of Environmental Protection) memo this week, Ashley, can you clarify that?

**Mr. Kopansky:** We have received various communications from DEP. We are working with them. Obviously, this application right now... the purpose of that is a Wetland Permit and we will be submitting a Stormwater Pollution Prevention Plan to the DEP for their review.

**Boardmember Eckardt:** So, you will have to get all your ducks in a row with the DEP. Is that correct?

**Mr. Kopansky:** Yes, we need to have MS4 sign off prior to submitting to them. We don't need it but we would like to have it just so we don't have to make revisions to the document. So, we are having the Towns approvals... Patterson and Southeast are going to approve first and then we are going to send it to DEP.

**Boardmember Eckardt:** Thank you. I do think that is important and thank you to John for pointing that out.

**Chairman LaPerch:** Thank you, Lynne. Good catch. Any other follow up questions from Mr. Lord?

**Ms. Ley:** I can unmute him.

**Ms. Desidero:** I un-muted him.

**Mr. Lord:** No follow up questions. Thank you. I just saw the memo from DEP and I just wondered if it was something being looked into so thanks.

**Chairman LaPerch:** No, good question John, thank you. OK I had made a motion and we had a second and I am looking for a roll call vote on this:

The motion to Grant the Wetland Permit passed by a roll call vote of 6 to 0 with 1 absent.

**Chairman LaPerch:** Any next steps for this applicant or are they done with us?

**Ms. Ley:** They are done with the Planning Board. It's just the outside agency approvals as noted.

**Chairman LaPerch:** Well, thank you guys. Well done and thanks for hanging in there tonight.

**All NYSEG Representatives:** Thank you

**REGULAR SESSION:**

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1. **577 North Main Street, 577 North Main Street** – Review of an Application for Final Approval of Site Plan, Conditional Use Permit and Wetland Permit. Bart Lansky and Barry Haitoff appeared before the Board.

**Chairman LaPerch:** Onto the Regular Session and the first one up is 577 North Main Street. Who do we have here tonight representing them?

**Ms. Desidero:** Mr. Lansky is unmuted.

**Mr. Lansky:** Thank you and thank you for keeping the ball moving. Many Towns are not doing that right now, so I appreciate that.

**Chairman LaPerch:** OK. So, give us an update sir.

**Mr. Lansky:** Well, I've seen the memos from AKRF and the engineer. The conditions are all acceptable to applicant and I would like to ask for a vote and a resolution.

**Chairman LaPerch:** Ashley, I am pretty sure I saw the same thing. I didn't see any other comments from (Town Engineer) Tom Fenton and I think he satisfied your concerns, right?

**Ms. Ley:** Yes.

**Chairman LaPerch:** So, he is all tucked in, so I'll start with the Board members. Ms. Eckardt do you have any further questions for this applicant?

**Boardmember Eckardt:** I don't think I have questions. I have concerns about this, Tom, because I think they got off... and I am really grateful that an older building is being rehabbed but I have concerns because we kind of got off on the wrong foot with this project and I am a little leery... I just want to state that I am worried going forward because of this tractor trailer storage and the ARB recommendations weren't followed. And I am worried about the combination of uses, although I understand completely that's a business decision, but I am a little bit gun shy on this one. So, I just wanted to say that up front.

**Chairman LaPerch:** I understand. Listen, can I ask you a question, Lynne? What do you mean they didn't follow the ARB?

**Boardmember Eckardt:** Well, the ARB had a plant list that was not followed in the beginning. There were substitutions made for their... I think they had wanted... for example I believe they had wanted, and I could be wrong, cornus florida, which is the native dogwood and I think Korean dogwood were put in, which are lovely trees but... You know I have concerns when people take short cuts and I think in this case, like the tractor trailers showing up without being notified first... It tends to be asking for forgiveness rather than permission and that's my concern with this property. As I said, I think rehabbing an old property is great, but I don't think that should absolve anyone of future responsibilities.

**Chairman LaPerch:** Well, Lynne, I think you missed my melt down a couple of meetings ago, so I think I understand that. Any other questions, Lynne?

**Boardmember Eckardt:** No.

**Chairman LaPerch:** Mr. King?

**Boardmember King:** No questions.

**Chairman LaPerch:** OK, Mr. Hecht?

**Boardmember Hecht:** No questions.

**Chairman LaPerch:** Thank you. Mr. Cyprus, any questions?

**Boardmember Cyprus:** No sir.

**Chairman LaPerch:** OK, thank you. Mr. Rush?

**Boardmember Rush:** No questions.

**Chairman LaPerch:** Thank you. I have no further questions, and this is not a Public Hearing. There is only one action here tonight so I'm going make a motion to grant final site plan approval. The motion to Grant Site Plan, Conditional Use Permit and Wetland Permit Approval was introduced by Chairman LaPerch, seconded by Boardmember Cyprus and passed by a roll call vote of 6 to 0 with 1 absent.

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**Chairman LaPerch:** Mr. Lansky, I just want to end this long journey with you by saying there is still a lot of us on the Board that will be watching this project moving forward and I agree 100% with Lynne. I think you did a nice job with the building and hopefully it will stay that way. Please kind of follow the rules next time. All right?

**Mr. Lansky:** I understand I was off on sequencing and, at this point in time, I would thank the Board. And how many copies of the site plan should I send in? I know the notes I have to make on it but how many copies do I send in?

**Ms. Ley:** I will follow up with you on that tomorrow. We do have a set number that is specified in the approval resolution, which will be sent, but I'm not sure with the way things are right now if we are going to take fewer copies.

**Ms. Desidero:** I think if I might just add, this is Victoria, Mr. Lansky, it is on the application for final approval and that is actually the number we will be needing. Also, I just want to note for the Board that the Town Engineer was unable to recommend the bond for this meeting tonight so as soon as he is able to do that we will put this back on the agenda for a bond recommendation to the Town Board.

**Chairman LaPerch:** OK. Noted. Thank you. Victoria, quick question for the applicant: assuming we get the... can he get on the next one?

**Ms. Desidero:** I think that the Town Engineer Joe Dillon had reached out to Mr. Lansky today asking for something he needed in order to do this and if that can be sent to Joe Dillon at Jacobson's as soon as possible I don't see any reason why he couldn't be on May 11.

**Chairman LaPerch:** Good.

**Mr. Lansky:** If I may, I got a request for a breakdown of the bond... for information on the bond and I thought I had provided that in my package and sent it to him but I will follow up with him tomorrow so I would appreciate being on the next meeting.

**Chairman LaPerch:** All right, yes, we want to get you finished here so we'll get that bond.

**Ms. Desidero:** May 11<sup>th</sup>.

**Chairman LaPerch:** Thank you. Good night Mr. Lansky.

**2. AT&T, Cingular Wireless, 3925 Danbury Road – Review of an Application for Final Site Plan Amendment Approval. Alec Gladd of Cuddy & Feder represented his client.**

**Chairman LaPerch:** Good evening.

**Mr. Gladd:** Good evening. This is Alec Gladd from Cuddy & Feder. So, we last appeared before the Board on March 23 and, as you mentioned, we are seeking amended site plan approval for the existing wireless facility at 3925 Danbury Road. We are proposing to extend the tower 20 ft. to bring the total height to 120 ft. We're placing all supportive ground equipment within the existing fenced compound. We are not proposing any expansion of that compound and we are maintaining the existing flagpole concealment measures. Since the last meeting, we submitted revised drawings removing a typo to clarify that there is indeed no compound expansion. We also submitted the application and the fee for final approval. This application was referred to the County and I believe it has been approved by County and we also received the comment letters from the Town Planner and also the Town Engineer stating that there are no issues and recommending consideration of final site plan approval. I'll be happy to answer any additional questions the Board may have.

**Chairman LaPerch:** Well thank you. I don't have any additional questions myself. I think all our consultants are pleased with the responses to date. So, I am going to open it up to my Board: Ms. Eckardt, do you have any questions for this applicant please?

**Boardmember Eckardt:** Don't faint but I don't have any questions.

**Chairman LaPerch:** Thank you. Mr. King, any questions?

**Boardmember King:** No questions.

**Chairman LaPerch:** Mr. Hecht?

**Boardmember Hecht:** No questions.

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**Chairman LaPerch:** Thank you. Mr. Cyprus?

**Boardmember Cyprus:** No sir.

**Chairman LaPerch:** Thank you. Mr. Rush?

**Boardmember Rush:** No sir, no questions.

**Chairman LaPerch:** OK. I have no further questions here so I would like to make a motion to grant final amended site plan approval.

The motion to Grant Final Amended Site Plan Approval for the applicant known as AT&T, 3925 Danbury Road was introduced by Chairman LaPerch, seconded by Boardmember Rush and passed by a roll call vote of 6 to 0 with 1 absent.

**Chairman LaPerch:** So, Alec, thank you for your patience tonight and good luck. You can get your paperwork in and get going.

**Mr. Gladd:** Thank you. Have a good evening, everyone.

**3. FWL GROUP, LLC, 200 & 280 Fields Lane – Review of an Application for Final Subdivision Approval.** Jamie LoGiudice of Insite Engineering represented her client.

**Chairman LaPerch:** Jamie, this is an old one.

**Ms. LoGiudice:** It is. We...

**Chairman LaPerch:** Do me a favor and kind of give us a quick update because there might be people like me that have bad memories.

**Ms. LoGiudice:** Right. Sure thing. This property is located on Fields Lane, in between Fields Lane and 684. It is a two-lot parcel that we are merging together. It was part of a previous subdivision but now we are merging together. There's various environmental constraints along the... basically surrounding the property. There's wetlands that go from the east that wrap all the way north and all the way down and around to the west. There's a pond on the western side as well. So, there is not a lot of buildable area here. Basically, where the numbers 9 and 10 are is basically it and that is where we concentrated our development. The purposes of this project... this application is the lot merger that we need to be able to submit to the Health Department to finally get our final septic approval from them. We've gone back and forth between the DEP and the Health Department on their review of the septic because of those environmental constraints and some hoops we had to jump through with them. It took quite a bit of time so now we are back and have addressed any outstanding comments from DEP and the Health Department so now they just required that the subdivision be filed before they give their septic approval.

**Chairman LaPerch:** All right. Well, refresh my memory again: what is he building? What's the proposal?

**Ms. LoGiudice:** So, it is a commercial property. He doesn't have an actual tenant at the moment but for marketability purposes we do have a 28,500 sq. ft. building with warehouses on the... loading docks on the eastern side of the warehouse portion of the building is in the back. We do have an entrance in from Fields Lane on the left side and trucks will leave on the eastern side.

**Chairman LaPerch:** It's a loop.

**Ms. LoGiudice:** Yep, so we do have that. We do have a very extensive landscaping plan on the next sheet with basically mitigation plantings all over the place because we do have some disturbance within the buffers. We have kept the building outside of the Town buffers and we've kept the majority of the impervious surfaces outside of the DEC buffers.

**Chairman LaPerch:** Yeah, this has been around for a while. Ashley, can you do me a favor and kind of give us an update... Our action tonight is on the subdivision. On the site plan, where are they?

**Ms. Ley:** So, they have their Negative Declaration. They are trying to get their outside agency approvals. I can't recall if they have been to the ARB yet or not.

**Ms. LoGiudice:** Yes, we have.

**Ms. Ley:** But they have had all their referrals out...

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**Ms. LoGiudice:** I think, honestly, the only thing we need left is the Health Department approval for the septic and we'll be back for site plan... for final site plan.

**Chairman LaPerch:** But this has been seen by the ARB?

**Ms. LoGiudice:** It has yes.

**Chairman LaPerch:** Signed off? OK. That's what I mean. This has been around a while. Did you talk to Laurie Bell (Town Assessor) because she is about when you are merging lots, about the 911 issue?

**Ms. LoGiudice:** We did. We provided the Plat to her. She recommended that we keep the 280 address as the lot to survive this merger and the other address would be extinguished.

**Chairman LaPerch:** OK, good. Ms. Eckardt, any questions for this application please? I know you remember this one.

**Boardmember Eckardt:** I do. It's a real walk down memory lane. I think this is from 2018 and my concern is when you look it up on Google maps, the pin is in the middle of the pond. Jamie, do you know... I know it is just on the subdivision... but what's the percentage of office space to warehouse space here? Do you know?

**Ms. LoGiudice:** I don't know that. I'd have to look back at the site plan.

**Boardmember Eckardt:** OK, all right. It's not important for the subdivision but I was curious so that...

**Ms. LoGiudice:** I know it is a small portion. The warehouse is the bigger portion to the back but there is a smaller office associated with the warehouse building.

**Boardmember Eckardt:** Yeah, I see the truck bays. That's what brought that to mind. OK. Thank you.

**Chairman LaPerch:** Jamie, another question before I move on from Lynne. Is this a single-story building or is this like 35 ft.?

**Ms. LoGiudice:** It is a single-story building. Let me jump to the site plan... the bulk table just to see what...

**Chairman LaPerch:** Sorry to throw you a curve ball.

**Ms. LoGiudice:** That's OK. It has been a while, so I apologize.

**Chairman LaPerch:** That's all right but I know that screening is going to be a key issue here and I think (inaudible).

**Ms. Ley:** Can you see it?

**Ms. LoGiudice:** Yes, so the building height... we are less than three stories... I believe it is a single-story building, but I can double check that when we come back for...

**Chairman LaPerch:** OK when you come back. I am sorry to interrupt you. I was just curious. All right. Lynne are you finished? Any other follow up questions?

**Boardmember Eckardt:** I am now. Thank you, Tom.

**Chairman LaPerch:** OK, thank you. Mr. King, any questions?

**Boardmember King:** No, I'm all set.

**Chairman LaPerch:** Ok, thank you. Mr. Hecht?

**Boardmember Hecht:** No questions.

**Chairman LaPerch:** Thank you, sir. Mr. Cyprus?

**Boardmember Cyprus:** No questions, Tom.

**Chairman LaPerch:** Thank you, sir. Mr. Rush?

**Boardmember Rush:** No, but I wanted to thank you for putting a sidewalk around all of your... for pedestrians to walk on the property. It is nice to see that. Also, are we waiting, Ashley for further development of the lighting. Is that going to be part of this at some point?

**Ms. Ley:** So, they already submitted a lighting plan that was reviewed by the Board prior to issuing the Negative Declaration and that was reviewed by the ARB.

**Boardmember Rush:** OK. Good. I just don't remember. Thank you.

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**Chairman LaPerch:** Yeah, it's been a while, David, you are right. I have no further questions. I'd like to make a motion to Grant Final Subdivision approval.

The motion to Grant Final Subdivision Approval for the FWL Group located on Fields Lane was introduced by Chairman LaPerch, seconded by Boardmember Rush and passed by a roll call vote of 6 to 0 with 1 absent.

**Chairman LaPerch:** Jamie, you got your approval here for the subdivision. Hope to see you soon in the next couple of years. Hope it doesn't take that long.

**Ms. LoGiudice:** Hopefully we will be back in a couple of months.

**Chairman LaPerch:** OK. Good stuff. Thank you. Good night. Victoria, do you have anything for us? I know the minutes of the meeting were not ready for tonight and that's fine. Is there anything else this Board should know about moving forward?

**Ms. Desidero:** I don't think so. I haven't heard anything new about meetings starting up or anything like that so I think we are looking at May 11<sup>th</sup> possibly being another Zoom meeting.

**Chairman LaPerch:** OK. We can continue down the path. We are doing a good job and thank you both to Ashley and to Victoria as always for making this manageable and work. Board members I appreciate everything.

The motion to close the meeting was introduced by Chairman LaPerch, seconded by Boardmember Rush and passed all in favor.

**May 14, 2020/VAD**

**THE RECORDING OF THIS MEETING IS AVAILABLE AT:**

<https://www.southeast-ny.gov/337/Planning-Board-Audio-Files>