

**TOWN OF GREENFIELD**

**PLANNING BOARD**

**March 25, 2014**

**REGULAR MEETING**

A regular meeting of the Town of Greenfield Planning Board is called to order by Tonya Yasenchak at 7:00 p.m. On roll call, the following members are present: Tonya Yasenchak, Nathan Duffney, Michael Gyarmathy, Andrew McKnight, Thomas Siragusa, John Streit, and Stan Weeks. John Bokus, Alternate is absent. Charlie Baker, Town Engineer and Mike Hill, Town Attorney, are present.

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**MINUTES – March 11, 2014**

MOTION: T. Siragusa

SECOND: B. Duffney

RESOLVED, that the Planning Board waives the reading of and approves the minutes of March 11, 2014, as submitted.

VOTE: Ayes: Duffney, Gyarmathy, Siragusa, Streit, Yasenchak

Noes: None

Abstain: McKnight, Weeks

(J. Bokus arrives at 7:02 p.m.)

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**AXEL SONDHOF – Site Plan Review**

Daniels Road

Axel Sondhof, Jere Tatich and Brian Gyory are present. T. Yasenchak recuses herself. J. Streit opens a public hearing at 7:03 p.m. J. Tatich reviews that this project is for an equine clinic and explains the site plan. There will be no stabling of horses on the property, only procedures and immediate recuperation time. Robin Ambrosino, questions the lighting that will be on the property. John Jayco, Denton Road, questions that a zoning change is required for this property. J. Tatich states that the lights will be 12' in height and will be traditional barn lights. R. Ambrosino asks if they will be on all night. Dr. Sondhof states that they will only be on when needed. R. Ambrosino states that she has no issue with this in general. There being no further public comments, this public hearing is closed at 7:10 p.m.

C. Baker states that the applicant has provided adequate responses to his review letter. B. Duffney states that it is a great project and that in Greenfield, and that area, there is a need for this. S. Weeks states that it looks good, he is glad to see that they put a roof on the manure storage, he questions that they are going to be using incandescent lights and that he would prefer to see the septic extended rather than using metal straps. T. Siragusa states that it looks like a good project and that the applicant has provided everything asked for. M. Gyarmathy states that it is a good project and the applicant has taken all the Board's concerns into consideration. M. Hill states that as this project is for a structure which is less than 4000 square feet there is no need for SEQRA; it is a Type II action. T. Siragusa questions that that is true even if this is for animals and there will be manure storage. M. Hill states that is correct.

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**RESOLUTION – Axel Sondhof, Site Plan Review**

MOTION: B. Duffney

SECOND: M. Gyarmathy

RESOLVED, that the Planning Board grants approval to Dr. Axel Sondhof for a Site Plan Review for property located at Daniels Road, TM#152.-1-17.2, per the map submitted.

VOTE: Ayes: Duffney, Gyarmathy, McKnight, Streit, Weeks, Yasenchak

Noes: None

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**WITT CONSTRUCTION – Major Subdivision Amendment**

Old Stone Ridge

Jen Merriman is present. T. Yasenchak explains that the applicant requested the postponement of their public hearing, but as it has been advertised, the Board must open the public hearing. If anyone is present who would like to speak, they may or they can wait and speak at the next meeting. J. Merriman reads a statement from J. Witt dated March 25, 2014 and provides a copy for the Board. A public hearing is opened at 7:18 p.m. J. Szpak, Lester Park Road, states that he had sent the Board a letter and reviews some of his concerns and issues. He states that J. Witt had met him at the property in August after J. Szpak sent a letter with his safety concerns. He has had over \$10,000 worth of personal property damage due to these trees and is not seeking anything for that, but the reason he thinks it is relative to this case is because before any further cutting occurs on the Witt property, he would like his area remediated. J. Witt agreed to remediate that area back in August and said that it would be done no later than October. Nothing has been done in that area. He states that he met with J. Witt and a contractor and marked some trees, and someone from Cornell Cooperative Extension came and gave an analysis on what could be done to remediate the safety concerns. They met with a logger who was going to do the work and instead of doing the work J. Witt diverted him to continue further clear cutting upwind trees, which made the situation worse. He states that he would like the remediation done according to the plan from Extension. Unfortunately, what the plan does is that there are some trees that are beautiful, nice trees that have to be cut down now, which is a big advantage to J. Witt because it gives him more view. It is a big disadvantage to everyone else. J. Szpak states that he is opposed to moving any no cut lines or buffer zones even closer to the foot of the hill for those reasons and he has lost hundreds of his own trees, the stumps are all there. He states that he has had a loss of property value because his property used to look into woods and now it looks directly into the back of a home and it will have the same negative effect for any of the properties on the bottom of the hill. He fully understands that you need to clear some of the tree line for views and that was always the original intent, but he remembers in 2006 being at the Planning Board when J. Witt sold this project and when he personally rode his bicycle out to J. Szpak's house to talk to him about the hillside that was going to remain forested, it was going to remain wooded. In fact, before J. Witt purchased this property he had a little nature trail thru the back of his property thru the property that is now J. Witt's and originally owned by the Bentons with whom he had an agreement. J. Witt stated that the only thing he was going to do on the hill was to widen out J. Szpak's nature trail and turn it into a cross country ski trail thru the woods. That has been clear cut all the way past that trail. So when J. Witt stated that he had always intended to clear for the view, he is sure that is accurate, clear for view, never intended to clear cut the hill or even cut anything on the hill other than maybe one or two tall trees that were blocking the views up above. He asks the Board to please consider remediating the immediate safety issues prior to cutting some more property. He asks that the Board make sure that there is something that now that the trees have been cut or before more trees are cut, what can be done for the neighbors that were told that they were going to be living in houses nestled in wooded areas and to J. Szpak who was told that none of it was going to be cleared. Maybe put some evergreens or something up at the base of the hill that don't impact the view of the houses on top of the hill so that it minimizes and

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mitigates the impact. He states that another thing that was promised back in 2006 is that there is a paddock area at the corner of Lester Park Road and Middle Grove Road that was supposed to be cleaned up and turned into more of a pasture-like setting. Since 2006 that property has had piles of stumps and wood on it and it looks really poor from the road and for the other neighbors around it and it is only getting worse. They are only piling more stumps and rotted wood in that field. He would like the Board to consider remediating that, which was agreed to have been done in 2006, that is actually worse right now. There were a couple of things that were said at the last meeting that he would like to comment on. He states that it is not factual that there was a geologist on site to make sure that they were not disturbing any fossils. The fossils were all disturbed. The issue was that the question that the Board raised was, is this an environmental problem if we disturb all the fossils on this property. The geologist, who really was not an expert in that area from Skidmore College, basically said that these are cryptozoan formations, they are relatively rare, but they exist in other places in the world and the county so they are not protected. In other words, there is nothing illegal about destroying those fossils. The fact is that they were all destroyed, they were all displaced, they were paved over, they were broken up – none of them were saved except for the few that he and some neighbors, with permission, came and picked up off of the property. It is wrong to state that the fossils weren't disturbed. They were destroyed on purpose; there was no law that was known that prevented that from happening. No care was taken to work around any of them. J. Szpak states that he is kind of tired about hearing about the hardship of how costly it was to build the road thru this development. J. Witt knew, he took on that risk before he built the first house, that that was all a stone area and a steep bank. He knew that he did not get permission to access the upper road thru Middle Grove Road because that was too dangerous to put an entrance on. As soon as he knew that, he knew the cost, he knew the risk he was taking to do that. The first house that was built – he hit solid rock. That was before any of the roadways were cleared. The fact that it was costly was a risk that he was taking on in the very beginning and J. Szpak states that he does not think that that should be considered by the Planning Board as a hardship, that was a self-created situation. He states that J. Witt has told him that this is all about him making money, that's why he is doing it. J. Szpak states that J. Witt took on the risk and the burden, he was the one who said to J. Szpak and the Planning Board that that hillside would remain forested and natural, and that it would be a buffer to the neighbors below and J. Szpak. This was not a hardship that was discovered, it was known. J. Szpak states that also from the minutes of the last meeting stating that there was one neighbor who had some blow downs and some gusts. J. Szpak states that there were hundreds of trees lost. The minutes state "J. Witt said that they would cut those trees down for the neighbor and he was happy with that." J. Szpak states that he expressed to J. Witt his extreme dissatisfaction with that and for J. Witt to say that J. Szpak was happy with that is very disturbing. J. Szpak states that gives the Board a sense for the character of what we are dealing with right here. He states that when J. Witt stated that they do have some trees between the properties and will leave the trees down at the bottom of the hill and that is what his plan is to do, well J. Witt had planned to leave that whole hillside wooded and it got clear cut. J. Szpak states that the fact that J. Witt states that, he would caution the Board, make sure you get in writing what you actually approve vs. what you think was stated and what will happen, because there is a difference between the two. Joe Carbonaro, Lower Meadow Lane, thanks the Board for the opportunity to air concerns. He states that they believe that their views and interests have not always been accurately portrayed. He states that the minutes of the March 11, 2014 meeting state that, "He states that he has spoken with the neighbors and told them what he plans on clearing and on keeping." J. Carbonaro states that although that is true, he did tell the neighbors that in October, what is the point of mentioning that if it does not carry with it the implication that the neighbors somehow approve of what they heard, and they decidedly did not. He states that hopefully the Board will understand the neighbors being a little suspicious that someone wanted to exclude them from the discussion and prevent the airing of opposing views. It is clear from the minutes that the Board asked some good questions. J. Carbonaro states that they did not like the plans that they heard in October. Furthermore, they did not like the way in which they were presented with the plans. They were politely but very definitely told by the builder that he had the right to do all the cutting and that the neighbors had no say in the matter. They did not say that they approved, they asked questions for clarification to be sure

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that they understood what he was planning and why he thought that the neighbors had no say in the matter. They investigated the claims that he was truly empowered to execute those plans unilaterally and found, they think, that those claims were completely untrue. He asks if the current, official version of the site plan approved several years ago is the definitive document that determines what is and is not allowed by anyone – homeowner, builder, etc. T. Yasenchak states that is, that is the way that the property is to be developed, how it was approved. M. Hill states that is correct. J. Carbonaro asks who determines any penalties, levies fines, denies building permits, etc. M. Hill states that that is outside the jurisdiction of the Planning Board, the Planning Board has no enforcement authority. Those are questions that would be directed to the zoning officer. J. Carbonaro states that their understanding is that G. McKenna had instituted a moratorium on issuing any further building permits and that had been the case for a building that is going in right now but he relented. They all understand why, the property had already been bought and they don't want to cause any trouble for someone who is going to be a future neighbor. They don't have a problem with that but the statement that they heard from G. McKenna was that he does not intend to issue any others unless for some reason someone overrules him. He asks if G. McKenna is the final authority on it. T. Yasenchak states that the Planning Board approves a site plan and then it is within G. McKenna's purview to approve the building permits and to make sure that it is built out accordingly. J. Carbonaro states that J. Witt stating that the neighborhood cost him a lot of money and he needs to recoup his investment, it is completely immaterial to the question of whether or not the site plan should change. At the October meeting J. Witt actually said to the neighbors that there were some money issues but he is a business man and that is his problem and not the concern of the neighbors. Then to see things in the minutes about recouping his investment, it is completely immaterial. Neither is it legitimate to use arguments such as he did not realize what he was agreeing to or that is not what he intended. Of what value is a contract, and that is what a site plan is essentially, if one of the parties can later say that he does not know what happened, but that is not what he meant to write into the contract? Brian Green, Old Stone Ridge Road, states that when all of the neighbors were sold on the properties in the neighborhood, the big selling point was all the common areas were going to remain wooded, wild; anything that was not on a lot was going to be treed. Clearly that's not the case. It might not be in the contract, but that is definitely what the stated sales pitch was. He states that if he wanted to live in a field or farm land, they could have done that in a subdivision in Clifton Park. He met with J. Witt in May, they walked the lots and J. Witt kind of pointed out what he was going to do. This is after he had already started and B. Green lives right across the street. He states that it is clearly affecting property values so he called J. Witt with concerns, he came out and met with B. Green, and gave the same explanation – it's in the HOA, he could cut down anything he needs to create views. Even to the point that at the meeting that was held in October J. Witt stated that if one of those homeowners on the top of the neighborhood, even after everything is done and the HOA is turned over to the residents, if they see a problem with any tree in the neighborhood that is affecting their view, they can just go and cut it down without approval. Obviously that is not legal. B. Green states that he asked the specific question, can they go and cut a tree down if it is in the median in front of B. Green's house and not on their property. J. Witt responded absolutely, they are buying the view. Ken Clifford, Old Stone Ridge Road, states that when they had the meeting with J. Witt, they were told what he was going to do and he asks the Planning Board to keep in mind that J. Witt had already done it. He states that they were notified, on the original site plan, that J. Witt was going to stop at the cut and grade line which he never did. K. Clifford states that his question is, he knows that J. Witt is trying to file to extend that but how do you do that after the fact. The damage is done. His question is how do we remediate this, how do we fix it. The value of that neighborhood has gone down, in his opinion, has decreased dramatically. He does not know how someone can clear cut a hill and no one knows about it. He requests that the Board not extend the cut line or grade line and that somehow we remediate that and have a time line, exactly what is to be done and how that is going to shore up the hill. He has concerns with safety. The pitch of that hill is tremendous, the water, the runoff, etc. He states that to B. Green's comment, when K. Clifford bought his home he was told that they would be built into wooded acreage land and that would never change. Everything that was wild would remain wild. That is obviously not the case. He states that it looks like a plane crashed there, it's terrible. There are trees tipped over, there

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are sheared trees. He states that you can drive up Old Stone Ridge Road and see no less than 20 or 30 trees that are sheared in half because there is nothing stabilizing them. That is on the road, so how safe is that? J. Carbonaro states that regarding a remediation plan, he thinks that it has to be extremely precise. If there is a judgment that J. Witt must replant the hill, it is obviously going to have to be a lot more specific than that. It should state number, size, species of trees, a detailed map, a warranty that if the trees die they need to be replaced with the same thing, etc. There shouldn't be any subjective criteria in that remediation plan at all and to the extent that that might not be possible, it should be very clear who gets to make that subjective assessment. He thinks that would be the Planning Board and not the applicant. There being no further public comment at this time, this public hearing is adjourned at the request of the applicant to the next meeting. T. Yasenchak states that typically the way the process works is that an application is made to the Board, the Board reviews it and then sets a public hearing. At that point the notices go out to the public. Typically when an applicant first comes before the Planning Board it is not something that is noticed at that point. The Board wants to make sure that when the notices are sent, the Town has adequate information on record so that the public can come and view that information, so that when you are here to make public comment you can view exactly what the Board is viewing. It is not that the Board does not want the public involved; we want to make sure that the public is informed when you come.

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### **MULLEYVILLE SNOWMOBILE CLUB – Site Plan Review**

Ormsbee Road, Rear

Steve Archer is present and states that they are intending to build a pole barn to store grooming equipment on a 13-plus acre site on Ormsbee Road extension, which is a non-town road. They are also seeking an area variance. T. Yasenchak states that there are a couple things going on with this application. They do not have frontage on a public road so they are seeking an area variance. In doing so, that area variance also has to be reviewed by the Town Board for an open development area. Because this property is located in the KROD overlay district, it is before the Planning Board for a site plan review. She states that the Planning Board cannot take action until the area variance has been acted on by the ZBA. S. Archer states that the driveway already exists and the site is cleared only for what they need and nothing more. T. Yasenchak states that they do have a seasonal stream indicated on the site plan. She asks if there are culverts, etc. S. Archer states that they have a 3' culvert for the stream and the barn site is expected to be more than 100' setback from it. He states that it flows during the spring for 3 or 4 months. T. Yasenchak states that the driveway is already there and the culvert has already been put in. She states that we do have a letter from the Adirondack Park Agency stating that they do not have jurisdiction, but they did state that there are other agencies that the applicant may have to go to, ACOE and DEC. S. Archer states that they have not talked to DEC. He states that from the Saratoga County GIS there is no classification on the stream. C. Baker states that typically if you are doing a stream crossing, it may or may not require a permit from DEC. He suggests that the applicant contact DEC to look at the crossing that was put in and see if they have any comments. T. Yasenchak reviews that in the KROD we are looking at the building to have no more than a certain amount of windows, which this has none; the colors should be natural and not in contrast to the surrounding environment, this is going to be tan with a green roof. T. Siragusa asks if there is going to be electric power there. S. Archer states that there is no power on the site and they will not be bringing power to the site. If they need power, they will run off of a generator at this time. At this point there are no plans to hard wire anything. Any type of work lighting would be temporary. They may decide to change that in the future. However they would not be bringing electricity to the site – it would either be a generator battery system or solar system, but that is far down the line. T. Siragusa asks the size of the groomers. S. Archer states that they are 8' by 18' and then there is a drag bringing it to about 40'. There are 4 garage doors because it would be drive in and drive out because of drag. B. Duffney states that there is a seasonal stream; he logged property adjoining this one. He does not believe it is a major issue. There is a classified stream on the other side

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of the road. J. Bokus states that he believes that this is a worthwhile project. M. Gyarmathy states that it appears to be straightforward. T. Yasenchak reads from the KROD regs. Discussion takes place that while the building is steel, the Planning Board does not believe it will affect the community or the neighborhood. B. Duffney states that would create less of a possibility of a fire. T. Yasenchak asks about exterior lights. S. Archer states that they may have some basic battery lights for entry, inside, other than that they are not planning on any. Discussion takes place that they are staying under 1 acre of disturbance. Public hearing is discussed and set for April 8, 2014 at 7:00 p.m. SEQRA is not required on this project as the structure is less than 4000 square feet.

### **ZBA Referral**

#### **RESOLUTION – Mulleyville Snowmobile Club**

MOTION: J. Streit

SECOND: S. Weeks

RESOLVED, that the Planning Board, regarding the Area Variance request of Mulleyville Snowmobile Club for property located at Ormsbee Road, Rear, TM#110.-1-4, sees no adverse planning issues and feels it is consistent with the surrounding neighborhood,.

VOTE: Ayes: Duffney, Gyarmathy, McKnight, Streit, Weeks, Yasenchak

Noes: None

T. Siragusa asks for clarification as to why this has to go to the Town Board. T. Yasenchak and M. Hill explain the open development area.

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#### **CASEY CORNELL – Major Subdivision**

Humes Road

Casey Cornell and Gary Robinson are present. B. Duffney recuses himself as he is doing some work for C. Cornell on another property. G. Robinson states that they did receive C. Baker's review letter, he has spoken to C. Baker and they will be taking care of those comments. They will be getting rid of the man-made pond and that DEC had no issue with that. T. Siragusa asks if that is because it is not a natural pond. G. Robinson states that is correct. He was told that if they turn the valve off to it and the pond goes dry, that is ok. T. Yasenchak states that the Board had had some concerns about the ownership of the pond, how it would be maintained and the water flowing into the pond was coming from one site and the pond is on another. G. Robinson states that at the location of the existing house, there is an artesian well. He explains how they are going to put in a perforated pipe and divert the water after they drain the pond. The well is hand dug. S. Weeks states that his concern about a perforated pipe would be that if trees are planted around there, that pipe is not going to be very effective for very long. C. Baker suggests getting something in writing from the DEC regarding these issues. He asks if the wetlands downstream of the pond are DEC or ACOE. G. Robinson states ACOE. Discussion takes place regarding where the water currently goes. C. Cornell confirms that the well was hand dug when the house was built. G. Robinson reiterates that most of the water comes to the pond from the pipe that was installed. T. Siragusa states that he understands that since it is a man-made well, he understands the applicant wanting to run the water underground. G. Robinson states that they have added road profiles to the plans, indicated the grade around the cul-de-sac and basins near the end of the road. T. Yasenchak asks G. Robinson to explain a little about the rain gardens. G. Robinson explains that you must do some type of green infrastructure, that rain gardens are just one option to keep the rain water where it falls and they are easier than some other options. The plants will absorb some of the water and then what remains will go into the ground. He explains that as the specific site plans come in for construction, they would decide where the home is going to be, find a location for the septic, well and the rain garden. It would be

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another requirement for the building permit. T. Yasenchak states that, going along with what C. Baker said, if there could be a note on the plans so that anyone buying a lot would know that that is something that needs to be integrated into the design. Individual homeowners are responsible for that. It is not something that is put in with the rest of the development. A. McKnight asks about the right of way issues between 12 & 13 and 1 & 13. G. Robinson states that they have gone over these a couple of times. Between 12 & 13 there was a property owner who might have been interested in an easement for his property. There does not seem to be interest any longer in obtaining that easement, therefore they have taken it off the plans. If for some reason the gentleman wants it in the future, they will work on that. If the lots sell, then he would have to go to the new property owners. C. Baker asks if that property has any other frontage or access. C. Cornell states that the property owner accesses it through the abandoned portion of Ridge Road. C. Baker asks if that easement is something the Planning Board should require as access to a public road and not creating a land locked parcel. G. Robinson states that it is already a land locked parcel, they are not creating it. The property owner has no easement. The previous owner of the parcel that C. Cornell owns gave the other property owner permission to cross. M. Hill asks if there are any structures on the land locked parcel and if there are any other jeep trails or other access from Ridge Road into that property. C. Cornell states that there are no structures. G. Robinson states that Ridge Road runs into the property. A. McKnight states that the trail runs into the paved portion of Ridge Road off of Plank Road. It is a trail, it is not maintained, it is not even as good as a logging trail anymore. C. Baker states that he does not believe it is a Town Road. G. Robinson explains that the trail between 1 and 13 has no easement on record anywhere. He thinks that people have used it before at the whim of the previous owner. M. Hill states that based on the description of the lack of access to the land locked parcel, that Ridge Road is not really a viable form of access to get to that lot and it sounds like, as a practical matter, the access to that lot has been obtained from the existing Humes Road thru what was previously shown or proposed to be an easement between lots 12 and 13. T. Yasenchak states that there is no easement. M. Hill states that then access was apparently accomplished that way. There is no formally granted easement but the person who owns the land locked parcel accessed it by means of that trail. Based on the conversation here it does not sound like there would be that much access by means of the old Ridge Road even though that apparently extends down to that property. M. Gyarmathy states that that portion of Ridge Road extends down to Coy Road. C. Cornell explains where the old Ridge Road comes out onto Coy. Everyone uses it as an ATV highway, it is passable. M. Hill states that it is an interesting question and even though that portion of Ridge Road is an abandoned road, there is still the question of whether or not the public still has a right to use it even though the Town is not maintaining it. As far as quality of access, based on the discussion, it doesn't sound like there is a great deal of difference. He believes that it bears further investigation. He understands C. Baker's point about closing off a means of access to what would otherwise be a landlocked lot. C. Cornell states that according to the guy who owns it, he owns property on the Ridge Road so he has a right to use Ridge Road to Coy Road. The gentleman told C. Cornell that he can get up there anytime he wants. C. Cornell states that the gentleman bought that parcel as a land locked parcel on Ridge Road way before he had any permission from the previous land owner to drive thru her field. M. Hill questions that the means of access would have been to come up and down on Ridge Road. C. Cornell states that is correct, it was a land locked parcel on an abandoned Town Road and the guy made friends with the lady and asked her permission to come up Humes Road and cut thru the field. She gave him permission. C. Cornell states that the gentleman had bee hives out there; he lives in Ballston Spa and hangs out on the property. G. Robinson states that from what he understands the previous owner just said that he could use the area. M. Hill asks if anyone knows how long that arrangement went on. C. Cornell states that he does not know. M. Hill reiterates that C. Baker raised a legitimate question for the Planning Board's consideration. He suggests that we should look at the status of Ridge Road and see exactly what it is and whether or not Town residents still have a right to use that even though it has been abandoned and then we will revisit the issue. G. Robinson asks what would be the potential outcome if the gentleman has no right to Ridge Road. M. Hill states that in that circumstance the outcome might be that since he has had access for some period of time over this dirt strip, since the applicant is contemplating an easement in there, a question might be if

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we can go back to the plan and have an easement from Humes Road that would track that dirt strip that he has been using, to formalize a means of access for that lot. G. Robinson states that it seems unusual to him to require the applicant to offer access to that. M. Hill states that there has been an existing means of access across this property for some indeterminate amount of time, and there has been an expectation that has resulted on the part of the individual who owns that lot that he is going to be able to get there that way. C. Baker states that the thing that has to be kept in mind is that this is a Town Road, the Town is going to be doing some of the improvements to this road and he is a Town resident and could come before the Board and request access to that road. G. Robinson states that then he should be told to talk to C. Cornell who might do something for him. He states that you wouldn't say to C. Cornell, you have to provide access. C. Baker states that the Planning Board is planning for the residents of Greenfield, we have an opportunity right now to do that with this subdivision. M. Hill states that if we find out that that section of Ridge Road, although abandoned, if there still remains a right of Town residents to use that section of the road, then at that point there is an alternative means of access for that property and it would not technically speaking be land locked. If there isn't a right to use that, then by not having an easement across that area that has come to be used for some indeterminate time, and albeit initially informally with no easement filed, nonetheless, the person has had access that way, and if Ridge Road isn't a viable means of access, then you are asking the Board to approve a subdivision that essentially closes off the only access to that lot. G. Robinson asks if you couldn't say the same about Ridge Road. He used Ridge Road before he used the trail off of Humes to access that lot. Wouldn't he still have a right to use Ridge Road because he had been using that for years, as maybe the person before him? M. Hill states that we are looking to avoid a problem if at all possible. If Ridge Road still affords a right of public access then that may be all that we need to know. He states that a potential concern is whether or not someone is going to claim adverse possession and a right to use that trail that has been used for whatever period of time. That gets into a whole bunch of legal questions that we don't want to get into or try to address. G. Robinson states that would be with the applicant, it is not really the Town's responsibility. M. Hill states that this Board, by virtue of the subdivision approval, would be instrumental in creating a potential issue. J. Streit asks if it would be appropriate to get a statement from this owner, what his needs are, a declaration from him of how he can access Coy Road and does he need this, before we pursue this. It could be a moot point. T. Yasenchak states it is whether or not he has the legal right to use, if it is an abandoned road, Ridge Road. Discussion takes place as to how roads are abandoned. The other trail between lot 1 and 13 is discussed.

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**PRESTWICK CHASE – PUD Amendment & Country Squire Green Space Amendment**  
Denton Road

Luigi Palleschi is present. T. Yasenchak reviews that we have the amendment for the Prestwick Chase PUD and the amendment to the Country Squire green space. L. Palleschi provides a map indicating the green space boundary line adjustment that the applicant is looking to do for the Country Squire subdivision. There is an existing 25-plus acre green space that is shown and the reconfiguration line, maintaining the 25-plus acres, is also shown. He states that he has spoken to C. Baker regarding his comments and labeled areas as 'sub areas'. C. Baker asks if the portion, 6 acres, to be given to P. Goutos is included in the original PUD acreage of 89-plus acres. L. Palleschi states that it is. C. Baker states that he understands that the applicant is stating that the PUD is going to stay at 89 acres, but he sees that the open space for Country Squire Estates is going to be deducted by approximately 6 acres. L. Palleschi states that it is relocated. C. Baker states that a portion is going to P. Goutos, so that is no longer technically a part of the green space. Discussion takes place that the portion that will belong to P. Goutos will still be part of the open space because it will be deeded as green space, although it will belong to P. Goutos. M. Hill asks for clarification on the existing parcel owned by P. Goutos. T. Yasenchak asks how many lots the green space originally went with. L. Palleschi states that there were 8 lots. M. Hill states that his understanding is that the applicant is looking to reconfigure the green space and then at some

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point later to come back to the do the lot line adjustment with P. Goutos. By separating that process, it creates an extra process here at this Board, and potentially gets us back in a position to have to go thru yet another amendment of green space. He states that it seems like it might be helpful in keeping the process clear if the boundary line adjustments were done all together at the same time. He believes that D. Pentkowski was thinking along the same lines of trying to accomplish this altogether with one proposed application and amendment. He asks P. Goutos if he has any objection to a process that would handle everything at one time. P. Goutos states that he does not, he agrees with M. Hill. M. Gyarmathy states that it seems odd to him that the green space has to be contiguous yet it can be owned by different entities. T. Yasenchak states that it is still green space that could not be used or developed, so whether one person pays the taxes for all 25 acres or two people, it could be cut up. R. Rowland asks for clarification as to whether the green space is going to be a separate lot or is it still technically going to be part of the property of the PUD and it is going to be redesignated as the green space for Country Squire. Is it going to be physically a stand-alone lot or just on paper that it is separate? M. Hill states that, without talking to D. Pentkowski, that 25.5 acre green space has a separate existence right now, it is not part of the PUD. T. Yasenchak states that it is not part of the PUD but the problem, as we dealt with it at the last meeting, is we don't know when that parcel was annexed into the Prestwick Chase parcel, because it was a parcel at one time for Country Squire. M. Hill states that their understanding as the Town Counsel, at this point, is that we have the Prestwick Chase PUD at 89+/- acres and we have a 25.5 acre designated green space for Country Squire Estates subdivision and that 25.5 acres happens to be owned by Prestwick Chase, the same owner who owns the property that is in the PUD. So, separate parcels under the same ownership. He states that he is not aware of any boundary line adjustment having been done to merge the 25.5 acres into the 89 acres, which we understand to be Prestwick Chase, and which was the approved acreage for Prestwick Chase when it was originally created. He states that his understanding is that the 25.5 acres has existence as a separate lot. T. Yasenchak states that on the tax records it is shown as one. M. Hill states that for tax mapping purposes as opposed to legal purposes, an owner who owns property in common can request the County to merge lots for tax map purposes, but that does not constitute, legally speaking, a merger of the lots. The lots have a separate existence. T. Yasenchak states that L. Palleschi is showing separate meets and bounds, so they are now showing it as a separate lot. L. Palleschi states that is so that you can draw up a description of that new 25.5 acres, so that anyone, 20 years from now, can put it back on the map with the meets and bounds, close that area and say that is what it was designated for. T. Yasenchak states that there is a difference between having meets and bounds that identify where the green space is and meets and bounds that identify it as a separate tax parcel. L. Palleschi states that he does not think they would have any objection to making it a separate parcel. T. Yasenchak states that what we see as to what has been approved as far as site plans and subdivisions, that is a separate parcel. It was a separate parcel when Country Squires was done. As we go forward, how is that going to be defined? Is it going to be defined as a separate parcel? However, we cannot approve a lot that does not meet the correct regulations for a building lot. However, it is supposed to be a lot that will always be green and not developed. She states that she does not know how we answer that question. The intent is that it will never be developed, so does it matter that it meets the requirements for a legal lot. M. Hill states that he does not think that the Board has to focus on that. You have an existing 25.5 acres of green space, it is pre-existing, it was identified and approved over 20 years ago and what the Board is doing right now is reconfiguring portions of it. There would be boundary line adjustments that would occur with regard to P. Goutos' property and Prestwick Chase so you are not creating any new lots there. J. Bokus states that he does not understand how we can say that there is a 25.5 acre green space lot but we are going to take 7.5 acres of it and put it in someone else's name. T. Yasenchak states that it will still be green. J. Bokus states he understands that, but it is 25.5 acre parcel that you are taking 7.5 acres away and then you are trying to say that it is still 25.5. M. Hill states that it will be because the area that is going to be the green space, assuming that this proposal moves forward and is approved, that area is going to be identified, including any portion that is conveyed to P. Goutos, as the green space for Country Squire Estates subdivision and he would like to confirm with P. Goutos, that assuming this process moves forward and there is a boundary line adjustment, that he clearly understands that this space will be completely

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restricted against any development at all, there won't be any development possibility and also, this acreage will not be includeable or countable or creditable, to P. Goutos' existing property for purposes of determining the amount of land that P. Goutos has for any possible future subdivision of the property, etc. This portion of the property is already used up, spoken for with regard to any development potential, whether it is for purposes of subdivision or construction, etc. It will be extremely heavily restricted. P. Goutos states that he understands this. He states that the original PUD allowed for individual lots along Denton Road. One of the benefits of doing this is that it completely takes it off the map for future development and it does not have to be worried about again. T. Yasenchak asks how the Board feels about the redistribution of the 25.5 acres from the Country Squire's perspective. S. Weeks states that he is more comfortable with it now that we have a 75' strip along Daniels. He did not feel that the 50' was enough protection for those houses. As long as it stays at least 75' he believes that he can accept what is being proposed. B. Duffney states that he is ok with the redistribution as it would give Prestwick Chase another way out to another road. A. McKnight comments that there is already a strip of land there. L. Palleschi states that they do not have sight distance at that location and that is why it is placed as it appears. B. Duffney comments that between Prestwick Chase and the bed and breakfast there is approximately a 50' buffer. He asks what the setback area for building would be. L. Palleschi states that they reduced the building that was proposed in that location from a 3 to a 2 story building and it is now about 75' from the original property line. T. Yasenchak asks how far it will then be from the new property line. L. Palleschi states that it will be 25'. B. Duffney states that he sees no issues with the green space. T. Siragusa states that he thinks that in the end he is going to be ok with this, but he is just generally uncomfortable with it. He does not really like it. We are just kind of moving things around. He will be more uncomfortable when we start talking about density. The neighbors in Country Squire signed up for something there, it is not their property, but the neighbors who were pre-existing there have some expectations of the green space. J. Bokus states that he has no problem with swapping the parcels. He still does not understand the transfer of ownership of part of the 25.5 acres. M. Gyarmathy states that he agrees with T. Siragusa, he is very uncomfortable with it. He thinks he said from the very beginning that this is double dipping. You are moving around a piece of green space to accommodate a dense development. Maybe F. McNeary could have said he wanted to develop the 89 acres and put an access road thru green space, and M. Gyarmathy would have been more comfortable with that and he would like to hear what the neighbors adjoining the green space have to say. J. Streit states that he is comfortable with this. A. McKnight states that he is not in favor, he sympathizes with P. Goutos and wouldn't be opposed to Prestwick Chase giving/selling the area behind P. Goutos' home to him as green space for Prestwick Chase, but the area near Daniels, he is not in favor of the relocation. T. Yasenchak states that she feels it is a bit of a stretch. The green space for Country Squire was meant as a cluster subdivision and to her that is having the smaller lots and the green space around it. She feels that taking 7.5 acres and relocating that ¼ mile around the corner, that is not the same intent of the initial green space. Just speaking about Country Squire, she thinks it is still very important that green space and buffers be maintained to protect the neighbors to the south and the west. She agrees with A. McKnight, if that was chosen to be separately designated green space from the 90 acres to help the amended PUD for Prestwick Chase, she thinks that she would be more apt to be favorable, but she thinks that stretching the 25.5 acres across does not seem right to her as far as the original intent. For her it is important that however this gets redesignated, if it does continue to go forward, that the Board looks at it as new property lines. If we do reconfigure the 25.5 acres and subarea 2 is designated as part of that 25.5 acres of green space, that would then perhaps be sold to P. Goutos, that is the new property line and she would look at any new setbacks that are used for Prestwick Chase to go from that new property line and not to be included in that 50'. She is very staunchly opposed to using that 50' as a buffer. She states that in MDR2 side setbacks are different, they are between 35' and 50'. L. Palleschi indicates on the plans the area that P. Goutos will be changing his line to, not the 50' strip. T. Yasenchak states that the 50' strip would be part of the parcel that would be green space. From her perspective, she does not feel comfortable using that 50' for the buffer for Country Squire and the 50' buffer. L. Palleschi states that he understands. S. Weeks states that one additional comment he has about the swap is that there is a significant number of lots along Locust

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Grove Road that would probably be very delighted that this is going to happen. A. McKnight states that is at the expense of the parcels along Daniels Road. T. Yasenchak asks the applicant to submit a very clear map indicating the changes to be made to the green space prior to the public hearing. M. Hill states that he thinks it is going to be very important to make sure that the acreage figures are correct and that the reconfigured green space equals the original green space. Public hearing is discussed and set for April 8, 2014 at 7:00 p.m.

The Board discusses the Prestwick Chase PUD amendment. T. Yasenchak states that the long form SEQRA should reflect 89+/- acres. M. Hill states that we need to do both of these things in conjunction. Discussion takes place regarding adding additional columns or pages to answer some of the questions due to the changes in acreage. L. Palleschi will review and revise the long form as needed. L. Palleschi explains the changes to the site plan for the Board members who were not present at the last meeting. S. Weeks states that he likes the change from 3-story to 2-story at the Daniels Road entrance. C. Baker questions that they are still maintaining the 200' protection around all production wells. L. Palleschi states that he will check and confirm that. A. McKnight asks the number of units with the existing and proposed PUD. L. Palleschi states that the existing PUD allowed 257 units, a 120 bed nursing home and a 20,000 square foot club house. He states that the existing PUD proposed to disturb a lot more land than the amendment proposes.

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## **DISCUSSION**

Andy McKnight states that he has been enjoying his time on the Board, however he will be resigning his position as of the end of April as this position does take a great deal of time he could be spending with his family.

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Meeting adjourned 10:13 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland  
Secretary