TOWN OF GREENFIELD
PLANNING BOARD

September 25, 2018

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, Charlie Dake, Butch Duffney, Michael Gyarmathy, Robert Roeckle and Stanley Weeks. John Bokus and Karla Conway, alternate are absent. Gerry McKenna Building Inspector/Codes Administrator is present. Charlie Baker, Engineer is present. Justin Grassi, Town Council is present.

Minutes

MINUTES – August 28, 2018

MOTION: S. Weeks
SECOND: B. Duffney

RESOLVED that the Planning Board waives the reading of and approves the minutes of June 12, 2018 with minor corrections.

Ayes: C. Dake, B. Duffney, M. Gyarmathy, R. Roeckle, S. Weeks, T. Yasenchak
Noes: None
Abstain: None
Absent: J. Bokus, K. Conway

OLD BUSINESS

Stewart's Shop's Case #611 **Site Plan Review**
TM# 164.-1-44 **461 Route 9N**

Chuck Marshal and Jim Moran are present. C. Dake and B. Duffney recuse themselves. C.Marshall states that at the August 28, 2018 meeting Stewart's Outlined a number of contingencies. At that time the Board asked to have them in writing. Additionally, there were some plan modifications and reviews of letter. The truck backup alarm replacement which is bringing trucks to ambient backup sensitivity is 75% complete. Upon completion, Stewart's will provide a letter to the Town indicating such. Upon approval of the amended Site Plan, the landscape berm along Locust Grove Road will be constructed and as indicated. The lights along the proposed eastern elevation of the new building have been moved to the canopy. This was requested by the Chairwoman. The lights will not be visible from Locust Grove Road, lowered to an elevation 368'. Which is the same elevation as the top of the berm along that line. They will place noise mitigation roof top units along the southeastern building, which is the

existing cooler. Upon satisfactory inspection by the Building Inspector, they will request a building permit for the proposed 61,000 square feet dry storage building. Within 6 months of completion they will revisit the noise as it is outlined in the SEQRA guidelines for assessing noise. This indicates a 6 decibel change for mitigation. Those are the conditions that Stewart's sees at this time. To point out the changes, the lights were previously above the canopy, they have lowered them to the canopy level. They have 5 roof top units on the southeastern cooler, noise mitigation will be placed around them; there is still some design mitigation that they are working with, ballasting 4 sides, removable sides and dealing with snow. The ultimate change is not what is on the plan. They will indicate such to the Building Department. Those are existing not part of the new building. T. Yasenchak asks what exactly the panels are. C. Marshall states that right now they are just vinyl. They are 12'x16'x48" high black panels made by Zippity Outdoor. Again, there might be some work as they go along with sound blankets or some additional indoor material. They will not seek the Building Permit until those are constructed. T. Yasenchak states that the Board had discussed sound one of the items that they talked about at the last meeting. For any Board members that were not at the last meeting, NYSDEC does have a program policy for assessing and mitigating noise impacts. In their guidelines they talk about for existing facilities program specialists will determine the need for additional mitigation measures to control noise affects either in response to complaints or other changes and circumstances such as a main noise from existing facilities or a change in the land use proximal to the facility. They also, talk about analyzing an application through the procedure. The intent is to look at noise and describe the various methods of determining the impacts. That second level factors in such things as topography or noise beat measures in determining any adverse conditions that may occur. Some of those might be land formed as structure might affect the way a sound is preserved and can cause a canyon affect. Consideration of noise impacts associated with type of conditions may require specialized expertise. They do note that consideration of existing noise sources and sound receptors for the proposed activity can be an important consideration even when the activity under review is not a noise source. Topography, vegetation, structures in a relative location of noise receptors and sources to these features, all aspects of the environmental setting that can influence noise impact potential and as such land alterations may also indirectly create adverse noise impact where natural land features or manmade features serve as a noise barrier to provide noise attenuation for existing sources for noise. Removal of these features, for example vegetation, large structures or walls, can expose receptors to increased sound pressure levels causing noise problems where none had previously existed. She read that for when the Board revisits SERQA they do have the Town Attorney present. At one point this Board did not know how to analyze SEQRA, because the building itself is not proposed to create any noise. However, the Board did not know how to analyze the possibility that this project could make the perception of the noise sound differently in different locations, because of the new location building. J. Grassi states correct and believes they discussed this at the last meeting. The action that they will be evaluating for purposes of SEQRA is the construction of the facility, any of the construction around it, any of the grading, any removal of trees, as T. Yasenchak had suggested, any changes of the topography. There are a number of changes to be considered to take action that can result in potential impacts. Whether or not the Board finds the impact may occur, they can find that as a result of the action. That is entirely up to the Board. They could find that it increases the level of noise even if it is not specific mechanicals on this building which are generating the noise. They certainly can make that finding if the Board were inclined to find correlation with an increase in auditory impact as a result of this building, this action. C. Marshall asks that the Board cannot find something contrary to previous SEQRA determination correct? In previous SEQRA determinations, the Board has made a finding of no noise impact which was lead to an issuance of a building permit and an n issuance of a Certificate of Occupancy. Te Board cannot go backwards. J. Grassi states that is accurate. For any prior

actions that is accurate. That doesn't necessarily prohibit them from deviating from previous findings and recognizing that there have been changes of circumstances that if they had found that wasn't not likely no noise impacts. That does not preclude them from saying now if there are reports of auditory impacts, that they do exist. They can take that into consideration. They cannot over turn a previous finding. T. Yasenchak states that the Board can review SEQRA. They have a 4 members for SEQRA determination if they were to vote they would need to have the super majority. She feels that Stewart's is going toward the right direction as far as the mitigation. They are not requiring the applicant to go back and mitigate on that roof. However, if they have identified that and they are proposing that, she feels it is a good idea. She is not sure if the panels are acoustical or not. Again, that is not part of the exact project. She asks if they are going to ask for a conditional approval, they needs to go back and review this case at some point in the future she feels that some kind of independent consultant would be best served for everyone. She does not think that having the applicant, she is not doubting C. Marshall's abilities, for the good of the public, having the applicant test their own decibel levels after the fact, which may or may not incur more cost on them, may not be the best procedure. Also, the Building Department is not equipped to make that type of determination, they are not sound engineers. They are not experienced in that area. So putting that level of review on the Building Inspector, she does not believe that is appropriate, it is not typically his job. In the past the Board has asked for independent consultants when they are reviewing a conditioned approval. For instance the Board had an application that needed trees replanted. There was a study that was done by an independent consultant who was the one who actually counted the trees looked to make sure they were planted correctly. They all knew it was independent and no one doubted them. She feels that would prove the better result for all three parties involved. The applicant, the neighbors, and the Board. Going forward if that is a condition they would also need to outline some proposed mitigation in case something had to be done later. Again, it is not up to the Building Department. It's something that is knowledgeable in that profession. In all fairness would it be so that they would know what may or may not occur later on if the decibels were to rise. If they were, which direction or what they would be considering at that point. S. Weeks states that items that they addressed a substantial amount of the Boards concerns and the publics concerns about this project. The changing of the backup alarms is very significant from the overall project. Also, very significant in terms of sound that might bounce off this new building. The backup alarms are a big deal in terms of eliminating or greatly reducing one of the big nuisances with that kind of operation. He likes the that fact that they are going to do more planting along the berm. Lowering the lights is a positive. The noise mitigation screening regarding the hum, he looked up the panels to see exactly what they were, he knows they are panels, but he is still a little concerned about the reducing capability of plastic. C. Marshall states that they are vinyl. S. Weeks states as T. Yasenchak stated, the 6 month resampling, he feels should be done by an independent agency. The Board looks at that in quite a few different situations. He feels it would put the applicant and the Board in a better situation. C. Marshall states just so he understands, there would be a sampling now and then 6 months after they receive the Certificate of Occupancy? S. Weeks states he believes that is the strongest position they could take. He would like to see that happen. It puts everyone in a stronger position. R. Roeckle states that he agrees with S. Weeks comments regarding the baseline and the future review, so long as that it is an independent consultant. Perhaps instead of the Building Inspector reviewing it have our Town Engineer review it. Compare one study with the other to see if there is or is not any change in the decibel levels. If it was acceptable as per what was proposed. Other than that, it appears that they are proposing good conditions. Again, they did say that possibly looking into something other than the roof top coolers. C. Marshall states this is kind of a side project. It is not the emphasis of their manufacturing plant and the staff right now. He would not be surprised if there was something put inside the 4 walls. The 2 sides that go to the neighbors depending on where they are on the roof top, they are not

done yet. R. Roeckle states that during C. Marshall's comments he indicated that they would be looking at possible additional mitigation with those units. He feels that would be great. M. Gyarmathy states he agrees with all the other Board members have said. He strongly urges the applicant to get an independent agency for measuring the sound as well. He feels that is the best way to go. C. Marshall states that if that is the consensus of the Board, that is something they will do, they will revise the contingency, saying that would be done now and 6 months from the issuance of the Certificate of Occupancy. M. Gyarmathy states that he was hoping that the applicant would have gone a little further with the panels, because he does not feel there is anything there for him to go on, there was just a screen. C. Marshall states that they have a relatively large project going on internally there. Again, it's not the emphasis, but some intentions. He thinks they will have some improvements. S. Weeks states that it would be good if they would propose exactly what they are going to do and it doesn't leave it up to the Code Enforcer Office or anyone else subject to judgement. Present to the Board how they are going to do it. C. Marshall states those are current. Judging from the previous discussion about going backwards that would be outside this approval. They will do some type of mitigation that would provide G. McKenna with details of what they did. That will allow them to seek the Building Permit for the new building. Those are existing on previous determinations. J. Grassi states that as he is gathering information with the Board's finding, the development of this new building, for whatever reason, for instance the noise is bouncing off the side of the building, if the Board was to make a determination that the current noise level with the current mechanicals were exacerbated because of the construction, it would be appropriate to have a condition to mitigate that in some way. What the applicant is saying, which is completely appropriate, to mitigate the current levels, which would reduce the impact of the new construction to either 6 decibels or less. That's appropriate. If the question is whether the Board has the authority to now evaluate what the proposed mitigation is, he thinks yes. If the applicant's intention of the proposed mitigation is to reduce noise levels and yet to identify potential impact, negative impact for this current for understanding, the baseline noise level is taken without mitigation in place. J. Grassi states correct. C. Marshall states that they can't put up the walls and then jump them for that. J. Grassi states correct. T. Yasenchak states that the Board is asking for the baseline. C. Marshall states that he just wants it on the record. In 3 years from now he does not want to be accused of something different than what he actually said. It would be measured now, they would do the mitigation, they would get the Building Permit, and they would measure again in 6 months after that. T. Yasenchak asks that once the warehouse construction is complete and operations are proceeding? C. Marshall states yes. J. Grassi states from their perspective the only suggestion that he has is that they have been involved with a number of projects where the decibel levels are mitigated they are being measured. Just as the applicant is suggesting there are a number of reasons a third party/independent party is the most appropriate mechanism to do that. Not the least of which the conditions under which they will be monitoring these or evaluating these everything from atmosphere pressure to humidity to vegetation, to the time of year to new levels. The independent expert will understand all those. They will also be able to evaluate them more clearly. Again, for example they might have a truck pass by during a measurement and they might get a spike. The question whether or not what they are talking about is a baseline level over the course of an hour or of a minute or even just periodic spikes, which are all potential negatives. C. Marshall states that the problem is the material that they submitted where those spikes were indicated because they were man monitored, indicates the activity that cause that spike with a third party consultant doing it. So you can see the potential spikes not associated with the action. A truck passing by could lead to a decibel reading in the 80's. J. Grassi asks if it is a truck that is not associated with Stewart's. C. Marshall states yes, it could be a truck on Locust Grove Road. J. Grassi states correct. C. Marshall states that is repeated problem with the unmaned monitoring. T. Yasenchak states that she understands that. C. Marshall states doubt may be raised. T.

Yasenchak states that doubt may be raised dependent on the results at the end of how the noise is preceived and whether or not or when tests were done. She thinks that they are all in agreement about an independent baseline. As far as proceeding, what would make the Board move forward. Does the Board want to do the independent baseline as a condition going forward? R. Roeckle states that in reviewing the SEQRA, part of the review of the SEQRA is reviewing mitigation measures proposed by the applicant. If they are in mitigation measures they would not be able to evaluate until after they are installed to make sure they are compliant. Whether or not that initial baseline is created now or after, he does not feel that will impact how they review the mitigation measures that are proposed. He does not see a reason to hold off on a new study prior to looking at the SEQRA to determine if the mitigations proposed may or may not be adequate. S. Weeks states that he thinks he agrees with R. Roeckle. He knows that it is important for the Board to go back review SEQRA and discuss again the sound impact. Doing it now makes sense to him. M. Gyarmathy agrees. R. Roeckle states it is not required for SEQRA, but they have the public hearing in progress, it wouldn't hurt to open it and review after. J. Grassi states that is accurate, the SEQRA regulations certainly do not require a public hearing. T. Yasenchak opens the public hearing at 7:30 p.m. She advises the public to please respect the audience's time, the Boards time; they are looking for new information that hasn't been presented before. She has also been asked to keep things in a time frame and what has been discussed in other meetings is 5 minutes. J. VanDyk, Daniels Road, the Zipity products look an awful lot like vinyl fencing that people put around pools. He does not know what it will do for sound. He has some new information about noise. During the June 26, 2018 meeting C. Marshall stated that the Army Corp. of Engineers had visited the site in March of 2018 and told them they were good to go. He is submitting an email from Christine Delorier, of US Army Corp. stating that neither she or any representative of Army Corp. have been at the site since 2016. In her email it states that she went to the site once on October 6, 2016, Chuck Marshall was not there. They made no determinations in 2016. The only thing that happened in March of 2016 was that Stewart's informed C. Delorier that they were not going to obtain a written verification of wetland boundary from Army Corp. They designed their project such that it would avoid the delineated waters and therefore not trigger the need for a permit from them. At the conclusion of the June 28, 2018 meeting T. Yasenchak asked C. Marshall to provide the correspondence with Army Corp. and he has not. The Army Corp. does not just say they are good to go; they issue a letter of determination which Stewart's has never received. There will be more traffic, and provides a newspaper article from 7/18/18 that talks about more stores and more growth. They plan to open 17 new stores in 2018 alone. The red cedar trees for the landscaping are good, but the choice of the other 2 are exceedingly poor choices. He recommends Hemlock. He does not feel that the vinyl fencing is going to work. T. Yasenchak states that it has been 5 minutes and asks if he could wrap it up. J. VanDyk asks if anyone from the public would give up their time for him. He has 2 more paragraphs. T. Yasenchak and the neighbors have asked for a baseline to compare. Without a true sound study they have nothing to compare it with. There is a 6 decibel change in sound levels. They want to move 50% of their traffic over to the new area, they will just be moving the noise. He thinks the Board should take a serious look at that. At the end of C. Marshall's letter he asks to stop public comment. T. Yasenchak asks J. VanDyk to please wrap it up and to please stay to the facts. J. VanDyk feels C. Marshall needs to get Army Corp. at the site to make a determination that the pond is in wetlands, get a real sound study, and do some real noise mitigation, sound walls and building cladding. Casey Holzworth, Wing Road, states that he worked for DEC and is going to talk about the storm water retention basin. He guesses he really can't call it that because it was built in a wetland and it is pretty clear if anyone goes down Locust Grove Road and looks at the plant life that is in there. He did not walk on the property to see the pond itself. He states that he was a wetlands delineator for NYS DEC and worked directly with Christine Delorier. That is definitely a wetland area. He brought information to show the Board. There is a map of Slay Brook and it is

mapped Army Corp. wetlands in the middle of that pond. Prior to the pond someone had identified it as a wetland area. If Army Corp were to go there they would look at the vegetation, see that it drains through the ditches and culverts into Slay Brook and they would classify that as waters of the U.S. In every aerial image that anyone looks at, at that pond, it's always full of water. The whole point of storm water basins is to retain, hold back excess water. Ideally infiltrate some of it into the ground water, hold onto that water so it doesn't run into our water ways with impacts. It can't do that if it's always full of water. It is just a pass through system, it is essentially doing nothing in terms of storm water retention and infiltration treatment. It probably was cited illegally at the time. Whether or not it was caught is relevant to the current plant because they are proposing extra impervious surfaces. He finds it hard to believe that a system right now that doesn't treat storm water is sufficient if they are going to add additional storm water to that system. The area of construction is upgrading and he assumes that they are excavating a large amount of fill to get that level with the rest of the site. In terms of the site of the new building it's fairly upgraded from the rest of the site and he assumes they will be doing a lot of excavation to put that building in, including the foundations. They are almost guaranteed to hit ground water. In terms of this project, the Army Corp would not have jurisdiction over impacts of this site because they only regulate excavation of wetlands. He highly doubts there are any wetlands where the construction will go. However, all wetlands in NYS are based on ground water. If you have exposed ground water essentially upgrading of where you would be digging, you are almost guaranteed to hit ground water fairly early in that construction process. At which point unless they want the building to collapse they will have substantial drainage to get that water away from the basin, which Army Corp. doesn't regulate this, but probably would impact water levels in those wetlands in the forest. What they should be concerned with is where all that drainage is going. They have impervious surfaces now in terms of grass and field, but now they are also adding drainage of ground water which now has to go somewhere. He assumes into the same storm water system that he believes now should not be cited as it is, and is inadequate. He thinks that the Board should do their due diligence. Contact Army Corp, request official documents, they don't give anyone an OK over the phone. He has had multiple permits himself. They document pretty much every step with official documentation. He would ask for official documentation on their storm water measures and location of wetlands on the site. Tim Laski, Country Squire Court, agrees with everyone else as far as the baseline, a competent independent engineer doing the evaluation. One concern that he has is the letter dated September 13, 2018. It mentions item number 5 as a 6 decibel increase. The decibel scale is more arithmetic. A 10 decibel increase depending on the scale they are measuring is 2x the sound level. It sounds like a small number, but when they are looking at long arithmetic scale it is the factor of 10. Basically most of us preceive one sound to be twice as loud as the other when you are about 10 decibels apart. A 60 decibel air conditioner will sound twice as loud as a 50 decibel refrigerator. It will be 70% louder. It needs to be evaluated before anyone agrees on that value. He describes the different scales that could be used. He feels it is on the record that the neighborhood has complained enough about the noise. The original baseline, the neighborhood would agree it is not acceptable. To allow them to go 6 decibels when 10 is two fold is certainly not in the best interest of the neighborhood. Karen Wadsworth, Locust Grove Road, she wants to reiterate her gratitude to the Board having kept the public comment open. So much of this discussion is the way in which to keep the community participating, many of them have done their due diligence and worked really hard to go the Board with information that they hope is informed and solutions are well thought out. In 70 years the only thing that has been given to the neighbors as far as sound mitigation is the berm. There has been a determination for each building and legally the Board can't go back and reassess what was already approved. Maybe it is a state wide issue or is it with SEQRA. The truth is they have people in the neighborhood that don't sleep in a room in their house because of the noise. She is glad that the Board is recommending an independent consultant. It is important to her that

the measurements happen not just outside the immediate perimeter of the Stewart's Plant. For those of us that live up the road, that are at a higher elevation, they can still hear the hum. She is looking for their community to be healthy and for their quality of life not to be negatively impacted. Marion O'Keefe, Daniels Road, states that she is appreciative of the Board for what they are doing, but she is also disappointed in how far they have taken some of the concerns and definitely disappointed in Stewart's. The neighborhood residents are the people most affected by this proposed expansion, and they have come to the meetings throughout this process asking repeatedly individually, with grouped petitions and in good faith to be heard for this project to be done right. With the effects of those affected and their environment. The Stewart's representatives have responded time and again, with minimal respect and concern, and sometimes hostility, about the neighbors speaking. The main issue, the noise, the backup alarms were a much needed upgrade. Agreeing to a sound study, resulted in a shoty study. She is thankful to the Board for pushing them to do an independent study; the roof top units are not the main problem. It's an issue, but there are so many other sounds and affects to these sounds to consider. SEQRA states that they have to consider cumulative impacts and there are many besides the roof top units. The tree planting mitigation for site and sound issues on the large berm on the east side of the plant has been minimal. They already have a forest of trees around the plant except on the one side that do little to block the considerable sounds of an industrial operation. The traffic issues are pretty much ignored. They are supposed to believe that this is going to get better as the plant expands. The fact that the Planning Board has not asked for independent testing of the effects of removing 300,000 cubic yards of soil on the adjacent area, it's a wetlands, to neighboring properties. The water, even though it has been recommended by the Greenfield Environmental Committee, this frustrates her; they need to do a study. The neighbors are very concerned and feel that the Planning Board is not taking these issues of the effects upon the water quality and availability seriously. It's the community's environment. The water is too serious of an issue to be over looked and passed off. Assure those concerned. Do a study and show that there is no need for concern, then move forward with integrity. The new construction will affect the storm water retention pond. This needs to be studied. Jeffery Brown, Locust Grove Road, states that at the last meeting C. Marshall stated that they have not heard anything from the community or the neighbors about the noise or any problems going on at Stewart's. It started in 2003, up to then everything was acceptable to the neighborhood. In 2003 when the drainage pond was put in and the expansion was done, that is when the noise really started and the flow of water started. That is why they are here now; to complain before any more damage is done. The trucks need to be taken into consideration. There are going to be more tractor trailers going in and out of there on the east side of the building. That needs to be taken into consideration in addition to the roof top units. T. Yasenchak states the only additional information that the Board is asking for is the baseline and asks how does the Board feel about closing the public hearing? S. Weeks states that they have heard a lot from the public, the public has to understand that they hear the public. They are trying to react to what the public is saying. He thinks that they have heard every issue. That the Board needs to consider, think about, discuss and ask the engineer about. He would be in favor of closing the public hearing. R. Roeckle and M. Gyarmathy concur. T. Yasenchak states that the purpose of a public hearing is to receive comments and concerns of the public and the Board has done that for many meetings. If they feel, as a Board, they can reopen a public hearing if something is drastically different. If the applicant is providing the Board additional information that is drastically different than what has been proposed before. They have asked the applicant to do a baseline study and also, the site plan issues have been reviewed by the Town Engineer who is a licensed P.E. in NYS and is also hired by the Town as an independent consultant, which is why they have him present at the meetings. He is not from the Town, he is from EDP Engineering. The applicant also has their own engineer who has done site work and the studies the Board has asked them to do. She feels that C. Baker, the Town engineer, has

also commented on a lot of those items. So the Board has information to review as they go forward. She would also be OK at this point with closing the public hearing. K. Wadsworth asks to make a comment. She appreciates the public comment being open as long as it has. She hopes that they be considered a partner in this process and there have been several times throughout the public comment where it is actually the citizens who have been able to clarify some things in their research which has actually pushed things forward. She would like to ask the Board to take that into consideration. Their voice is an asset and is unsure why they would close the public comment. She does not understand why the Board would close public comment until something is approved. T. Yasenchak states that she is not going to get into a discussion about process, at some point they do have information that they have received from public, from the applicant and they need to make a decision. Unless something is received that is drastically different or they ask for additional comment on. At some point in this process they need to close the public hearing. She asks J. Grassi if he would speak on the process. J. Grassi states that the public hearing process is meant for the Board to receive information from the public. It's meant to get some of the local concerns and gather the information. That process is designed to be some limited amount of time so there is not the constant back and forth the applicant needs to respond to ongoing concerns. If the Board has any additional concerns then they can ask the applicant. The Board can also reopen the public hearing if there is new or additional information that has been submitted. The only other thing he wanted to add is that this Board is well aware this will start the clock for their ability to make a decision. That is the procedural reasons they may be inclined not to close the public hearing. If they are ready to move forward, to take action, review SEQRA and potential approval or denial itself, it is certainly appropriate to close the public hearing. T. Yasenchak asks J. Grassi if that is from the closeur of the public hearing or from when the Board deems the application complete? C. Marshall states in reality the Board shouldn't have opened the public hearing if the application wasn't complete. J. Grassi states that upon closing a public hearing they have a 62 day period to make a determination. S. Weeks asks that doesn't the application needs to be complete before they do SEQRA? J. Grassi states that completion of SEQRA will deem the application complete. C. Marshall states according to the Town Code Checklist they should not open a public hearing without a complete application. T. Yasenchak states that it is in the purview of this Board to do so. It does not say they cannot. J. Grassi states there are requirements for a public hearing which this Board has met. Expanding the scope is something this Board is generally inclined to do for purposes of generating public comment. T. Yasenchak states that they do that for the benefit of the audience. If an applicant goes through the time, process, the money to hire consultants and to do a complete application, then they have the audience bring forth new information, then the applicant has to redo things. The reason why this Board has opened the public hearing earlier than having a complete application is for the benefit of the applicant, as well as the public. That is why this Board has always opened the public hearing early. T. Yasenchak reads the Code on Site Plan Review. The problem that they have had in the past is that 45 days will often be more than what they are asking for additional information. Sometimes they have gone past the 45 days because of the dates of their meetings. T. Yasenchak states that the Board did not receive a letter from Army Corp. She believes C. Baker addressed that at one time. From her understanding the storm water that was designed under a previous application for that whole area is now grass where the building will be. The storm water was put in for that all to be impermeable surface already. C. Baker states that is correct. T. Yasenchak asks for the the building that they are doing, they are not proposing new storm water because that was already designed, built, and installed under the previous action. C. Baker states installed and permitted, that is important to note. DEC did review it, DEC did approve it. That is a wet pond design which is an acceptable storm water management technique. It's actually a preferred storm water management technique by NYS DEC. T. Yasenchak asks as far as the comments about Army Corp. how would he suggest this Board

address that? C. Baker states again, the action that is before the Board is the 61,000 square foot warehouse addition. There are no wetlands in this vicinity of that portion of the project. T. Yasenchak states the storm water was designed for that large space of impermeable surface. C. Baker states correct. T. Yasenchak asks that they would not have to ask Army Corp. because that pond exists and always existed as part of this project. C. Baker states correct. T. Yasenchak asks they are not planning on doing anything to that pond as part of this project. C. Baker states correct, they have demonstrated, by calculations and studies, that the existing ponds and outlets are designed for the new volume of impervious surfaces they have proposed as part of this application. T. Yasenchak asks if part of that application that was obviously run by a licensed professional engineer in NYS and not just done by Stewart's. C. Baker states correct, and he will say again, that it was recently reviewed by NYS DEC Region 5, Chad Severs, whom he had numerous conversations with and he has copies of all the documentation, and he has agreed and they are satisfied with what has been proposed. T. Yasenchak asks that there will be no reason for the Town to require or request a letter from Army Corp? C. Baker states correct. S. Weeks states that he appreciates the clarification from the Town Engineer, he was concerned about the Army Corp. He feels C. Baker has addressed that very well. He thinks they should still close the public hearing. The Board agrees to close the public hearing at 8:12 p.m. C. Marshall states that he would like to discuss the terminology of the word mitigation. They are proposing mitigation to existing noise. Should they receive approval for the construction of the 61,000 square foot facility they propose coming back after that 6 month period of the completion of construction. He is a little concerned about establishing that mitigation now, because of the uncertainty of where the impacts will be seen. He is not sure how to request that? The way he phrased it in his letter was to have it satisfactory to the Building Inspector. It was his thought that whether they do the study or are now agreeing to do the independent study, they would have to achieve that 6 decibel, mitigate to that 6 decibel standard. That is why they did not need to establish the mitigation now. T. Yasenchak states that there needs to be process and the way their process works the Building Inspector does not have that prevue to review items like that. He is only looking at things that have been approved. He goes out to a site, this is what the Planning Board approved, he is going to look to see if it is done and asks G. McKenna if that is correct. G. McKenna states the Town does not own a sound machine. If they did he never worked with one. C. Marshall states that he understands that and essentially he agrees, without knowing where it is going to be how, do they agree to it now? T. Yasenchak states they have the same doubts, so they have to come to some conclusion. If the answer at the end is a wall then all of a sudden they say that they did not expect that the Board needs to be able to have something. Some allowances or some assumption of how that will get done. S. Weeks questions if it did reach the 6 decibel level will they mitigate it back to where it was? If it is 7 will they mitigate it back to 6? C. Marshall states that anything over 6 decibels would have to be mitigated to decrease it to a number under 6 decibels. It can't go backwards to 0. M. Gyarmathy states he does not understand that either. He asks if they are going to hire someone to do a baseline study. 6 months later they are going to see if the noise levels are going to increase from the baseline study up 6 decibels? C. Marshall states correct. R. Roeckle states they are going to create a baseline. They are going to have the baseline before they do the mitigation, whatever they chose to put up there, currently proposing the 4' vinyl fencing then they will get the permit for the building. The building will be built, the Certificate of Occupancy will be issued, within 6 months after that is issued they are proposing to come back and redo the sound study to determine whether or not the decibel has increased 6 or more. If it is no more than 6, they are proposing that it meets the standard. That's the level that was outlined by the state in SEQRA. If it's more they will have to provide more mitigation, whatever it is. They are trying to figure out what that will be. This would reduce that to or be no more than 6 decibels. C. Marshall states correct and maybe they should do the testing at 3 decibels with the compliant by 6 decibels. R. Roeckle states that

would be better. C. Marshall states that he is not a sound expert, but when they bring it down, you're going down more than 6 decibels just by mitigating it. R. Roeckle states that the Board does not know what that mitigation would possibly be once they do the new study. Once they get that sound engineer he/she may propose something no one has thought of. C. Marshall states he thinks they should revise the conditions. Reviewing the test at 3 months and completing it at 6 months. Without knowing what it is now, he does not want to make promises that can't be achieved. M. Gyarmathy states maybe they need to have the baseline study first. C. Marshall states that it is the same issue. Bringing into compliance within the 6 months is the issue. T. Yasenchak asks to do baseline after 3 months of the Certificate of Occupancy or when they are fully operational? If they get the Certificate of Occupancy will they be moving ion that day? C. Marshall states that the problem is you can get suggestive as to what is fully operational. He thinks within 3 months of the Certificate of Occupancy because it is a conditional approval. Compliance within 6 months. R. Roeckle states that the 3 months with the assumption they will be substantially fully operational. C. Marshall asks J. Moran assuming they will be operational? J. Moran states yes. T. Yasenchak states that the Board can also have that as part of their report that they are asking for that independent consultant to have substantiated that. They still need to know what that mitigation may be or what it may include or who is approving that. R. Roeckle states or what they are not going to want to do. C. Marshall states that he is not going to want to build a wall around the building. J. Grassi states that from a legal perspective, essentially the applicant is suggesting the Board will review these impacts to acceptable levels, whatever they decide is acceptable, if it is 6 decibels or above. The issue is when the third party engineer says that they need a 20' wall in order to reduce those impacts, the applicant is almost suggesting that a blank check, so to speak, which is very concerning from a legal perspective on exactly what the details of the mitigation are for the applicant's sake and the Board. Making sure that once this building is complete there is a way to mitigate or else the only option would be to remove the building, which would not make any sense. They are in a bit of a conundrum on this. Without further sound engineer evaluation he is not sure what the answer to that is. Without someone coming and saying based on the current level, based on the proposed building and what is likely, it is still going to be a likely. At least that might get them closer if that is what they thought they needed. It appears that the applicant is on board with this type of mitigation. Under normal circumstance they would try to get as close as they can to an actual mitigation plan. If what the applicant is proposing is easiest, most cost effective, and likely the most efficient way to mitigate would be to do it 6 months after the Certificate of Occupancy, which is a little unusual but does make sense in this instance. R. Roeckle states they were asked earlier in the process for Stewart's to hire a sound engineer who might be able to recommend what might be mitigation. They may want to do that before they taken any action. So they have an idea of what the worst case scenario they are willing to spend x number of dollars on. T. Yasenchak states that it is an unknown. To bring it back to the levels that it was prior to the building. The location of this new building is not going to affect the way that sound is preceived currently. If it does change and they can't bring it down, it's not cost effective, it's not possible. Where does that leave the Board? They need some kind of idea how that would be mitigated. R. Roeckle states that comes back to the sound engineer, they could do the baseline tomorrow, but that person may be able to say if they do x,y, and z because they have noticed this is where the sound is coming from. That is going to mitigate a lot of the current sound. C. Marshall states the problem is, that they what are getting into is the Town's consultant and their consultant. The idea is to have one third party that does a baseline. R. Roeckle states a professional to do the study that is going to certify that the baseline is correct. Stewart's is going to hire that person who is going to certify that the baseline is correct. They will certify that it is done in the appropriate manner. Same as they would to hire an engineer to do their plans. T. Yasenchak states that is typically how it is done. The Board is not asking for 2 different independent, they are asking for 1. She asks C. Baker if that is typically

how an independent consultant works. C. Baker states that is correct. R. Roeckle asks if the Board wants to move forward with this application now or do they want to investigate possible mitigation knowing that they just closed the public hearing and they have 45 days to make a decision? T. Yasenchak states that the Board can reopen the public hearing. C. Marshall states the 45 days may not be long enough. R. Roeckle states that they can reopen it or get an extension. If they need information to provide the Board with possible mitigation based on what a professional has decided, maybe something may possibly need to be done. T. Yasenchak states rather than the Board come up with their own, because when they review SEQRA and they are coming up with conditions if they have that independent consultant as a professional, they need the mitigations and what they could be. That would be more specific than them coming up with possibilities. C. Marshall states that because of the uncertainty they didn't already do that so they will rush to have it done. T. Yasenchak states that they have to make their decision within 45 days. R. Roeckle states that because they have chosen to provide the Board with possible mitigation measures they may want to reopen the public hearing and adjourn it until such time of the Board receiving the information. Then review, it then close the public hearing at that point. T. Yasenchak states they can do it that way. 45 days does not mean that it is an automatic approval. That 45 days is perhaps in 30 days, when the Board decides to vote. R. Roeckle states that if they had something to the Board in time for the October 30, 2018 meeting that would give the Board 2 more weeks to make a determination. They may wish to reopen and adjourn. J. Grassi states it is also recommended when there is additional information, the new mitigating measures be a new baseline study. It would be suggested that they allow the public the opportunity to comment on how that was done, how they got the results, and how it may impact them as well. It may make sense to leave it open, even if the Board leaves it open for purposes of commenting on the new information. T. Yasenchak states that if they reopen it technically they can also receive letters from the neighbors and worry about counting the days. The applicant will be performing a baseline study by an independent consultant. She feels that the locations that were done last time were fine. C. Marshall states that judging from the previous study they will be closer to the property lines. T. Yasenchak states the NYS DEC does have guidelines online about assessing and mitigating noise impacts, something that is on the property line or just the adjacent properties. That is something that is NYS guidelines even for garbage facilities. Those are large waste management facilities, NYS DEC says that mitigation will be done at the property line and or adjacent property lines. Since the applicant said that they would be submitting additional information they will reopen the public hearing and adjourn it at this time.

Bortell, G. Case # 615 **Minor Subdivision**
Tm # 135.-1-6 **460 Lake Desolation Road**

Georgia Bortell is present. T. Yasenchak states that at the last meeting there was a question about the driveway. That driveway that the site engineer did not do the site distance because there was already a driveway permit that had been given to her from the county. The Board requested a letter from the county T. Yasenchak states that the Board received a new letter from Gary Mire, an engineer technician for Saratoga County Public Works, on September 13, 2018 and reads it. She asks C. Baker if that letter is acceptable. C. Baker states that satisfies him. T. Yasenchak asks if the Board has to review SEQRA. C. Baker states yes, it's a subdivision. The Board reviews all 3 parts of SEQRA and checks the second box in Part 3. The Board did ask for the driveway designation to be on the plans and they have not seen that and believes that is what K. McMahon has. G. McKenna states that it is there. The Board has prepared and reviewed SEQRA and found a negative declaration

MOTION: B. Duffney
SECOND: R. Roeckle

RESOLVED, that the Planning Board hereby grants a Minor Subdivision to Georgia Bortell for property located at 460 Lake Desolation Road, Case #615, TM# 135.-1-6, contingent upon receipt of the following:

- The driveway designation to be added to the plans.

Ayes: C. Dake, B. Duffney, M. Gyarmathy, R. Roeckle, S. Weeks, T. Yasenchak
Noes: None
Abstain: None
Absent: J. Bokus, K. Conway

OLD BUSINESS & PUBLIC HEARING

Apex Solar Power Case # 621 **Site Plan Review**
TM# 136.-1-2.3 **385 Lake Desolation Road**

Kevin Hall is present. He wishes to install a ground mount solar array and submitted additional information. T. Yasenchak asks K. Hall if he had an opportunity to review the code. K. Hall states yes. T. Yasenchak states this is a Level 1 residential Solar Panel ground mounted array. When they look at the design standards for level 1 part of it does talk about lot coverage. It is limited to the coverage that is allowed for an assessory structure. They have 2.3 acres. She asks G. McKenna if he has reviewed that and asks if it is acceptable. G. McKenna states that he can cover 60% of the property for an assessory structure. The Board reviews the Code regarding Site Plan Review. T. Yasenchak asks what color the supports would be. K. Hall states the supports will be aluminum. No paint, no coloring. B. Duffney asks any shine? K. Hall states no. The panels are black on black, black cell with black glass. They continue with review the Code. T. Yasenchak asks how the electrical is done. K. Hall states that all the electrical is under ground. They dig a trench from the panels to the house. T. Yasenchak asks if there are any advertisement signs on the panels. K. Hall states no. T. Yasenchak states that the owner stated that he is purchasing them and they are not leased. K. Hall states the only sign they would have is a ground sign out front while they are doing the work. T. Yasenchak states that they are allowed and asks what the total foot print size is. K. Hall states 25.9 square feet. T. Yasenchak asks if there is something in the information provided that notes the glare reductions. K. Hall states that he would have to review it, but believes there is. T. Yasenchak states that there is a detail that states there is actually a center cell so that as the sun light comes in it is reflected back. It actually goes to the rear side of the cell. To her that would assume there would be limited reflection back out if that light is being captured underneath. Is that how it works? She continues to read the pamphlet that was submitted. T. Yasenchak states that projects in the past that they have reviewed actually had specific notes saying it meets FAA Regulations and that is what the Board is looking for. K. Hall states given the location it doesn't really apply. S. Weeks states unless you are flying an airplane over it. B. Duffney asks what standard compliance is. Does it have something to do with airplanes? T.

Yasenchak states that is something they can put as a condition and if it is not provided then the Special Use Permit will not be granted. T. Yasenchak asks if they need the deconditioning. R. Roeckle states no, the property owner owns it. T. Yasenchak states that it is privately owned not leased. She believes that they do not have to review SEQRA and asks C. Baker states that is correct. T. Yasenchak opens public hearing at 8:49 p.m. No one is present and closes the public hearing at 8:50 p.m. C. Dake states that he does not think it would affect his opinion on the matter but, do they need to have the power to the house on the map for the application? T. Yasenchak states the application says shall so the Board can ask for that. On the site plan there are not any overheard lines shown. Are there overhead lines or are they all underground? Typically they are underground. T. Yasenchak asks if he knows where they are. K. Hall states no. C. Dake states that it does not change his opinion. T. Yasenchak states that it does not change her opinion either. The Board can always ask for that information. S. Weeks states just those 2 things about the glare and the underground line.

MOTION: C. Dake
SECOND: B. Duffney

RESOLVED, that the Planning Board hereby grants a Special Use Permit Apex Solar Power for property located at 385 Lake Desolation Road, Case #621, TM# 136.-1-2.3 for private property ground mount solar contingent upon the following:

Ayes: C. Dake, B. Duffney, M. Gyarmathy, R. Roeckle, S. Weeks, T. Yasenchak
Noes: None
Abstain: None
Absent: J. Bokus, K. Conway

NEW BUSINESS

Young, M. Case #622 **Sketch Review Minor Subdivision**
TM# 111.-1-68 **299 Ormsbee Road**

Mark Young is present. He states that he subdivided 50 acres 5 years ago into 4 lots. The lot that he was keeping for himself was the existing house and it was a 15 acre lot. At the time the property to the east of his house had a big field and woods with a stream. He went back and forth while doing the other lots. He knew there was this beautiful piece of property that he really wasn't making part of the original subdivision. He left enough frontage to do a keyhole lot in the future thinking it would be closer to when he retired and he would give himself the option of selling his house and building another on the keyhole lot. He thought he would be waiting another 6-7 years to do that, the more he thought about it, he thought he could start doing some of the work; he investigated how much it cost to rent equipment that will be an awful lot of investment. He thought he needed to get the keyhole lot first. Now it is more of an investment to do this without the equipment. He wanted to bring it in front of the Planning Board to see if they view this as an easy minor subdivision , as he does. It's a beautiful piece of property. His house is the yellow cape at the top of Ormsbee Road and he field is probably 6 acres. Everyone sees the view on Ormsbee Road but the land is beautiful too for a house.

That is why he wants to be able to access it. He is very confident of the soils. They have worked this land for generations and it is a very dry field. He would be shocked when he digs for perk if there would be any issues. This has always been a dry area. The building site is actually very small because of where you would want to build for the view. It's right out in the middle of the field. In his mind it is a simple setup. His lines on the map, his line is probably a little tight at the bottom, probably have to flare out. They will roughly be 2 7- acre lots when done. T. Yasenchak asks if he wants them to both be equal, if the one that the house is now on now could be a little bit less so that the lots could be a little more uniform. Is there a reason they couldn't be 6 and 8 acres? Is it 6 acre Zoning? M. Young states yes 6 acre Zoning. He does not know which one he will be living on. He would like them to be as close to equal as possible. He likes the fact that the existing house can access the bottom of the property that is a stream corridor down there. He was thinking at it from both ways if he sells his house, the idea of a family or whoever bought his house would have the ability to get down to the stream. He could give the whole second lot the entire stream, but he thought it would be neat. Because he would be reversing the keyhole lot, making that a 50' long piece of property, so he would have to have the narrow property at the other end. Just the way it works out. If the stream wasn't down there it probably wouldn't be such a big deal. It is such a long stream corridor, the idea of 100' of stream that could be accessed by the buffer he thought that was unique. That was his only thought there. Technically because it is all existing field either place could have horses. This is a popular thing in Greenfield. The stream doesn't go into a swamp or anything, it is a cut stream and a cut channel through the woods and you can walk to if without getting your feet wet. Jump across it and it is not wet on the other side. It is unique in that way. Beavers haven't gotten into it like so many other streams in town. This stream is very untouched and very beautifully set in the woods. B. Duffney states he has no questions. He knows the property well. There are driveway's on both sides of it and there is plenty of site distance. Right next door is Paul Lunde, it's a nice setup. R. Roeckle asks if the property line that is crossed out does that no longer exist. M. Young states before he subdivided it his house sat on 5 acres so that he could have a mortgage and he didn't have to mortgage the whole 50 acres. Those 5 acres disappeared when he created the subdivision and then the house went on 14 acres. Once he does the survey and figures out where the house may go, the line may change. M. Young states the older lines he is not sure of but the 50' line will stay there. It will be roughly 50' from the cemetery. He does not want to go much further because that is where the ideal house site would be. The only place where the line will deviate is where it goes down and thinks it will have to be wider. R. Roeckle states other than site distance he is fine with it. S. Weeks states that it is a keyhole lot, does he have the real specifications of how the road will be built. M. Young states yes. M. Gyarmathy has no additional comment, he knows the property well. C. Dake has no questions either. C. Baker states good use good piece of property. T. Yasenchak states they will be looking at site distance and that is something they are asking for with all the driveways. Keyhole is great and she does understand when they have a wonderful stream it is great to take advantage of for dogs or horses. If he could make it a little more parallel just something to make it a little more uniform. It is just good planning. It makes for good neighbors later. M. Young states that the unique thing about this is the keyhole lot is in the back yard of whoever is owning his house and the person owning his house is also in his front yard. These are 2 neighbors that will always get along. T. Yasenchak states that you would hope so. Make sure he has the right setbacks. M. Young asks if he should have the surveyor put the proposed house on the map. It wouldn't necessarily hinder a future purchaser moving in. T. Yasenchak states that it doesn't have to be that square of a house. It can just show the building envelope so it would show the setbacks. M. Young asks have the surveyor puts it on the plans. T. Yasenchak states yes, do the survey show where the property lines are now and where the proposed property lines would be. The acreage, the building envelope, and the setbacks that would be something he would bring back to the Board. They would review it

and continue if they need to make any changes. Something the surveyor can do while he is out there is the site distance. It may require, depending on the surveyor; having a traffic engineer review the site distance. M. Young states that his surveyor from 5 years ago retired and he gave all his records to a gentleman in Luzerne; they said they had all my records.

DISCUSSION

T. Yasenchak states that because they have been discussing process at the last couple meetings there was something at the last meeting and S. Weeks was not present. At the last meeting she asked the Board if Town Attorney needs to be at every meeting. The Board all voiced their opinion and it was a consensus that although there might be more important larger projects where there would be more community involvement possible environmental issues, complicated SEQRA or a PUD, they do not need to have the attorney present at all meetings. He can read in the minutes that how everyone voted and what their opinion was. Most of the projects they felt they did not need to have the Town attorney present. The Town Supervisor contacted her and states that he was going to budget for the attorney to be at every meeting for 2019. Since then everyone felt that it was not necessary and the Town Attorney didn't feel it was necessary. She reviewed all of their projects in 2018; their agendas to see which meetings the attorney was at; and which meetings the attorney would have; been good to have and which ones he was asked to attend and didn't. She put that in a document and forwarded it to the Town for herself not from the Board. Although she did note their discussion at the last meeting of what everyone individually said as well as who was present. So she was not speaking for anyone that was not present. She did not forward it from the Board she forwarded it for herself. She felt that if it is something that should be budgeted it should be budgeted based on research. She also reviewed projects for having G. McKenna present and they have had discussion on whether he felt it is necessary to be present verses him providing them with notes or doing a review. Also as part of her research she looked at all of the projects, looked at which projects they asked specific questions that G. McKenna needed to be here for and she also included that in her report to the Town. What it came out to be is perhaps budgeting the Town Attorney present half of the time seemed to be appropriate. So far to date they have only had 14 meetings. 2 or 3 of which were cancelled because there was nothing on the agenda. So that it could be a decision that was based on research and actual facts. It is something that would be public record if anyone wishes to review it. If S. Weeks wants to submit something to the Town he would be able to do. Just because he is part of this Board does not mean they all have to do things together. They are still individual citizens. If anyone wants a copy of what she has forwarded for the budget to the budget officer she will provide it. B. Duffney thanks her for her time. It wasn't a 2 minute job putting it all together. T. Yasenchak states it was a little time consuming. She just felt that if it was a decision that was going to be made, then it should be based on research. It was very informative. B. Duffney states it came out to half of the time. T. Yasenchak states it comes out to be about 50% of the time. However, having G. McKenna present and the time being utilized reviewing an application or having notes verses having G. McKenna be present for the entire meeting, there were only 4 meetings they actually asked him specific questions. Although those questions could have been in their notes. Out of the 14 meetings they only asked a pertinent question at 4 meetings. Even out of those 4 one was Fossil Stone Vineyards. That was when they were talking about their general concept and the Zoning. That was still just concept he didn't really need to be present.

Meeting adjourned at 9:30 p.m. All members in favor.

Respectfully submitted,

Kimberley McMahon
Planning Board Secretary