

Village of Skaneateles Planning Board Meeting November 1, 2012

Continuation of the matter of the application submitted by Finger Lakes Luxury Homes, Inc./Rick Moscarito for Site Plan Review for work within 300 feet of the lake; Special Use Permit and Critical Impact Permit for a proposed change in use; and, to vary the strict application of Section 225-A5 Density Control Schedule for minimum lot area, minimum lot width, number of stories and maximum height to construct a 34 foot by 25 foot addition 4 ½ stories high and to add dormers to the attic at the property addressed as 46 East Genesee Street in the Village of Skaneateles.

Present: Bruce Kenan, Chairman
Bill Eberhardt, Member
Megan Keady, Member
Douglas Sutherland, Member

Riccardo Galbato, Attorney for the Planning Board
Dennis Dundon, Clerk to the Planning Board

Bob Eggleston, Architect, representing the Applicant

Patricia Blackler, Chair, Historical Landmarks Preservation Commission
Walter Blackler, Skaneateles

Absent: Mark Roney, Member

Chairman Kenan opened this portion of the meeting at 7:47 pm announcing the continuation of discussions regarding the application of Finger Lakes Luxury Homes, Inc. for the property at 46 East Genesee Street. Mr. Eggleston introduced himself and said, "From our last meeting, and Meg you are probably up to speed with what we did so I won't repeat, the biggest question... We're here for Site Plan Review because we are disturbing land within 300 feet of the lake. We provided some silt fencing and basic protection for the lake during construction. We are here for Variances in that the lot size, typical of most properties in the downtown East Genesee area are undersized for lot widths and lot area; and then building height – it's 4 1/2 stories versus 3 1/2. And then it is Special Use Permit by the Zoning Board of Appeals for having multiple families in the Downtown D district. And then Critical Impact with the Village Trustees. Pretty much the question that the Board left me with was how to deal with the dormers on the front façade. There was a strong interest in hearing from the Historic Commission as to what their thought and perception was. For the most part, in a nutshell, they had no problem with the back, they had no problem with the implication of the front, although we have made a few little changes. We have decided to make the residential door which you see straight on, a solid panel. We are going to put the glass transom panel; going into the retail space would be glass making it more

presentable to the street and customers.” Member Keady, “Is that an entry like going into the coffee shop, where it’s two different directions?” Mr. Eggleston, “Correct. What we needed to do is to separate the residential entrance from the retail entrance.” Chairman Kenan, “So physically – fortunately we have an ‘as-built’ right here – coming straight in is the residential and that is solid. The slight diagonal is the retail.” Mr. Eggleston, “We are pushing the existing door back 3 foot 4 inches, because when we renovated the front façade back 20 years ago, to get the accessibility all we had to do was gain 3 – 4 inches. We chipped back the stone; so that’s a sloped stone. The new area will be flat for customers to come in and so we have the accessibility.”

Mr. Eggleston continued, “One other change that we have made; we’ve met extensively with Eloise Luchsinger and she asked that we push back the third and fourth floor to align with the extension of her building. So she has a deck, we have a deck or patio in front. So we have done that accommodation for her. We don’t come out beyond the two adjacent buildings on any of the levels, on the west side. On the east side we do come out in front of Julie Sharpe’s, although she is totally aware of it and totally fine with it,” Chairman Kenan, “What does that do to the square-footage of the expansion?” Mr. Eggleston said, “I think we have reduced it a little bit. At this point, I wasn’t going to go through and update the narrative until we kind of settled with the Historic Commission and the neighbors – made sure they were set. But it’s a few square feet of living space. And really, I think it boiled down to what to do on the front. I presented the Historic Commission with five different options on how to proceed. We came out of there saying that ‘if we do it it should be a distinct – it shouldn’t be a repetition of something else – it should be kind of a distinct, well-appointed...’”

Member Sutherland said, “I think Andy took that view. I’m not sure that others necessarily agreed. Andy was pretty demonstrative about it, but I didn’t have the sense that people were expecting a whole bunch of distinctive pieces.” Mr. Eggleston, “And the whole thing is still a design in progress, as we go back to them. And we are planning on going back in two weeks, and what I was going to do was to finalize any drawings based on where we come out of here. Your question really is the basic concept of should there – your question is 4 1/2 stories. It’s going to be 4 1/2 stories whether it has dormers here or not. And I think you were just looking for a general indication from them, and Doug you can speak to what your interpretation of what the Historic Commission is and Pat Blackler is here if you have any questions about what they thought. We actually had a couple of the people say ‘do a distinct dormer’ and they had a couple of examples of a New England dormer. I think one of the challenges is that when this was approved it looked like it was 3 distinct dormers, but when it actually got built it is a shed dormer with 3 appliques. And there’s only a 6 inch reveal here at best. What we are talking about is that this is, between the dormers, it is actually a distinct – you see three dimensionally the dormer. So up on the third, up on fourth floor there is sloped ceiling in there and the headroom is just in the area of the dormer itself. So it will be a real dormer.”

Mr. Eggleston continued, “The other thing in looking closer, we actually have this building too low. Our building and the Sharpe building will be at the same height. That was based on, when we did her drawings and we really weren’t focusing as clear on that – but I took some photographs today that actually show that the Village Office building is actually the shortest building in this row. That’s clearly about a foot or so higher than what the Village Office is, as is

the building here. And so basically we'll be taking this ridge up to the same and the Kiltz building is still higher." Member Keady, "When you are interpreting your finish though you will be the same height as the Kiltz building?" Mr. Eggleston, "No we will be lower than Kiltz; we'll be the same height as Julie Sharpe. And it will be very similar to what Eloise Luchsinger is. The Historic Commission had an issue with this elevator. We took the skylights and just made them flat skylights, instead of the pyramidal skylight that we had originally. This will not be seen and we'll have some photographs and some three-dimensional – it will not be seen. In fact I had a section that I showed them. You stand at the Library you will not see it. Just like you don't see the ugly air conditioner on top of the building that the Village put up there – that sticks up right there – until you go up State Street. Where I was standing was at the Savings Bank entrance and then I went up about two houses beyond. And that will be the perspective that we'll do a three-dimensional drawing for, and you will not see this. If anything you might just catch a glimpse of the roof. It's sitting back about 20 or 25 feet back into the building."

Mr. Eggleston continued, "So this is what, I think, we are taking back to the Historic Commission. We will keep 3 dormers, have a double dormer in the center to reflect that this is a wider building than for instance the Kiltz building. But they will be very distinct dormers." Chairman Kenan said, "Bob, may I ask a question. If building height was not an issue – if there was nothing in the ordinance about building height and you weren't trying to measure against a so-called average roof height as I see there – would you design it differently? Would there be a dormer? Would you get light into the front of that apartment differently?" Mr. Eggleston, "I would probably do something with a dormer. You could do skylights and things like that, but I think being in that bedroom up there, being actually able to look out, see the street, has a very important benefit to the space and the quality of the space inside."

Chairman Kenan asked, "Anything else different?" Mr. Eggleston, "No, it's really just the profile of the back – the shape of the dormer is really the major difference. The site plan really hasn't changed at all." Chairman Kenan asked, "Anybody have any questions? Comments?" Member Sutherland asked, "Bob did you bring along the five or so versions that you reviewed with the HLPC?" Mr. Eggleston said, "I have them here. This [2a] was the original that we had proposed that was a shed reverse gable parked in the center of it, four windows brought close together and a physical dormer that you see on the sides. The second [2b] was similar but without the reverse gable; just a plain shed fitting a reasonably full-height window. And again this sets back a couple of feet as does Eloise and the Kiltz building. The next [2c] was actually keeping the shed but projecting this forward a foot, so that it read as a reverse gable, again keeping the same scale of window. The other [2d] was to do four distinct dormers, though we were actually putting a space – the black line is what Kiltz did and we are doing is giving actual roof so you had 4 very independent things. One of the thoughts, they kind of focused on this I thought – and I have a tally of what the various members were thinking – and they actually focused in on this one, but the thought was it needs to be its own distinct... I think that this, on the surface, looks too much like this, but done right. But that's where we took it and made it a little more distinct with the double and the single. And this [2e] was set back a little further, a little shorter height. We also brought the headroom down so it's kind of like a 6 foot high window – a little less ideal for inside – you'd have to kind of squat down a little to look out. And this is similar to something that was done another building or two down, a little less obvious on the front."

Chairman Kenan asked, "Any questions or thoughts or observations or concerns?" Member Sutherland said, "I think mine is basically the same concern I expressed the last time around. I think that we, me included, made a mistake in approving the application on top of the Kiltz building. With the row of buildings that is there, I just hate to see us building more foreign things on top of a significant historic row of buildings going through town. I did go to the Historic Landmarks Commission meeting and I thought the idea that you could have these distinctly different things plopped down on top of that historic row; I thought that would lead to some unfortunate results. My recommendation, I think, would be to find something that lets light in but does it in a much more muted way. I think that to the extent that you are faking history by putting these large and architecturally aggressive treatments on top of the building, I think you are just diluting the value of the historic structures that are below."

Chairman Kenan said, "Historically whether you count the front façade or the back façade, these have been 3 story buildings facing Genesee and 4 story facing the lake. The introduction of the dormers has changed that basic historic continuity of that stretch of buildings along there. I have got a different observation to make, Bob. I think that what's happened on Kiltz and Eloise has been because somebody has read very carefully the Zoning and tried to figure a way not to make it a taller building, or more stories. They have come up with something which is one of those unintended consequences that come out of reading, too carefully, all the words in the ordinance. In my mind, this is a 4 ½ story building no matter what you do to it. I don't think anybody disagrees with that. It is also -- I don't remember the dimensions -- but that roof that's up top, that's the height of the building. Sloping a little bit of it in front and saying that's the average height, just to get under some words in the ordinance, is just playing with some words. It really is whatever that height is -- a few feet more than the ordinance allows. But all the neighboring buildings are that height so I would expect you've taken that into account. It's only trying to make the words work where the reality doesn't say the same thing, that we get some of these dormer type things that Doug is objecting to there. I'm suggesting that the proper approach is to not get hung up on fine, little use of words in the definitions. What's the practical impact of it. The building is really whatever the height is, I can't read the dimension, but it is more than what you put there. It is really the height of the building." Mr. Eggleston, "51.5"

Chairman Kenan, "Now all that's kind of easy to deal with in my mind, but it is when you take that, what I'll call common sense approach -- others may disagree -- that creates a problem for this application, in my mind. The ordinance that the Trustees have adopted of late, doesn't require any more parking than you show on the site plan. But that's not reality. If you are adding 40% of the space to this building, you are clearly having an impact on the parking needs and the parking impact on the community. Clearly this part of the Village has a greater need for parking than the residential areas; the areas not zoned Downtown D, and has less ability to produce it because of the nature of the buildings and so on that are on it. I have a big problem accepting the concept that you can expand the building by 40% without making some adaptation to accommodate the fact that you really are increasing the parking needs, notwithstanding what the ordinance may require. That's my problem. I think we are trying to crowd 10 pounds into a 5 pound bag by doing that. It's not the first time that has been suggested along this block. That's my problem. Others are obviously worried about the historic impact and I understand that. My problem is that it is just too big. I would not suggest to the Trustees that a Critical

Impact Permit be issued without taking the real impacts – not the wording of the ordinance – into account.”

Mr. Eggleston said, “I have a problem, Bruce, with your selecting which part of the Zoning you want to pay attention to and which parts you don’t want to pay attention to. Because with the parking, I think that’s been a five year discussion. It has been a three year moratorium – let’s see how it all works.” Chairman Kenan, “But you can’t increase the density 50%, 40%, without realizing, regardless of the ordinance, that you are increasing the need for parking. I’m not being selective, I’m being practical.” Mr. Eggleston, “You were even involved in the subcommittee that was studying the parking issue and they finally decided...” Chairman Kenan, “I don’t think that’s true.” Mr. Eggleston, “You attended a couple of the meetings that they had in discussing it.” Chairman Kenan, “They didn’t do what I would have proposed in any event. But that’s not the point. The point is that you are increasing the density of use. You are having an impact on adjoining properties.” Mr. Eggleston, “They didn’t do what I would have proposed either.” Chairman Kenan, “It is what it is.” Mr. Eggleston, “It is what it is but I think it was also done with a lot of work and a lot of talk...” Chairman Kenan, “If the only thing you had to comply with is how many parking spaces according to the ordinance, that’s one thing. But there are other issues involved. Critical Impact and Special Use – I can read the paragraphs...” Attorney Galbato, “The Special Use Permit, if I may, and Site Plan and Critical Impact – those provisions were not amended when the parking ordinance, with the intent to remove the parking fee, was adopted. In those areas parking is still part of the balancing test as you are looking at those elements.”

Mr. Eggleston, “Exactly. I think if you look at it, what we have provided for is all the required – 100% of all the required – residential parking. That’s the real problem with where do people park overnight. Because we don’t want them parking on the street, we don’t want them parking in the municipal parking lot. The municipal parking lot has accommodated some of these non-conforming structures that have residential uses with no parking, but they don’t want to create more. And that’s what we are not doing. We are not creating more burden on the Village for residential parking. And basically we have 618 SF of retail; we are talking 2 required parking spaces for that retail that’s not being accommodated. If you were to take the square footage and divide it by 300 SF for the entire building, we are much less non-conforming than what the potential...”

Chairman Kenan, “If you didn’t increase the size of the building, but kept the existing ratio of parking alike – OK, I understand what’s happening. But you are adding 40% to the mass of the building; 40% to the need for parking.” Mr. Eggleston, “Which has significantly less per square foot parking requirements.” Chairman Kenan, “Under the zoning.” Mr. Eggleston, “Under the zoning. The business and retail is 300 SF. And if our typical building, let’s say existing building is, I forget what it is, let’s say 1500 SF, we need 5 parking spaces per floor. We would need 15, 16, 17 parking spaces for this as an office, if it was developed as a total office. That’s all. And we wouldn’t have any parking requirement, and that’s not increasing the building.” Chairman Kenan, “So we’re talking about Critical Impact.” Mr. Eggleston, “Residential use has a lot lower parking requirement per square foot, based on the zoning and reality.” Chairman Kenan, “Based on the zoning. That’s a different criteria.” Mr. Eggleston, “What they said was you need two parking spaces if it is over 1500, you need 1 ½ if it’s between 1000 and 1500, and you need only

1 if it is under. So we have 1 ½ for the two dwelling units and 2 for the other and we have provided that parking. In essence we have created more parking on site, because we have the 2 real parking spaces out back; because this electric thing is here we can't park. But we have created 3 parking spaces inside the building, where now you have 2 parking spaces outside the building." Chairman Kenan, "It could be 3, right?" Mr. Eggleston, "If you squeezed it in." Chairman Kenan, "It's no more of a squeeze that it's going to be inside the building." Mr. Eggleston, "Well no. Because we are now parking tandem inside the building. We have tandem parking for the one apartment..." Chairman Kenan, "Could you do that outside?" Mr. Eggleston, "No you can't, because we have breached the original building for that second car." Chairman Kenan, "So you have added a space." Mr. Eggleston, "So we have significantly lowered the parking reality for this building, of its potential keeping it the same size making it all office and retail, by making it into the 3 apartments and the very small retail. So I guess in that regard, I think the parking is quite adequate, and because the parking is a new ordinance, it reflects the current feelings of the Trustees when they passed the ordinance."

Member Eberhardt said, "Well, if 2 of these apartments – one is going to be owner occupied – are transient, and they are here visiting relatives, friends and have guests in multiple bedrooms, how many real parking spaces are we knocking out, conceivably?" Mr. Eggleston, "Well, I guess you could say that about anyplace. And then guests come and go and so they are parking someplace else during the day when they are visiting and then they go home at night." Chairman Kenan asked, "Is there anything else anybody wants to talk about?" Mr. Eggleston said, "And I do think that Ted Kinder of the Historic Commission probably put a perspective on it, having developed buildings like this. From an economic standpoint, the benefit to the Village is that we now have an up-to-date, code-compliant, sprinklered building, whereas that's not what we have now. You need the square footage in the space just to be able to justify the dollars for doing that. To knock out one apartment is just a deal killer as far as balancing the books." Member Sutherland said, "Ted also suggested that the aggressive dormer approach was overdoing it and that something that was far simpler, set further back was a better solution on how to handle that part of it." Mr. Eggleston said, "Ted's first choice was 2e, then 2b and third was 2d." Members Keady and Sutherland clarified that 2e was the shed dormer, set back with smaller windows.

Mr. Eggleston said, "Dave also had 2e as first choice. Otherwise the first choice was overwhelmingly 2d; there was one 2c, and one 2b in there." Member Eberhardt observed, "Choices from your options." Mr. Eggleston said, "I think the final resolution of the dormer becomes ownership of the Historic Commission. They are the ones that really – that's their area of interest." Member Sutherland pointed out "We also have Downtown D design standards review. I think it's both boards not just one board." Mr. Eggleston, "Sure. Exactly."

Chairman Kenan asked, "What else? Any other thoughts? Questions? Anyone want to make a motion?" Attorney Galbato said, "I think the first motion would be SEQRA if you want to get it out of the way. It would be my recommendation that three other boards will be looking at this project. It would be my recommendation that the Planning Board declare itself lead agency under SEQRA, like we traditionally do when a project requires multiple approvals. I believe uncoordinated review is appropriate, and based on the application and the comments, a negative declaration under SEQRA that the project will have no significant adverse environmental impacts under SEQRA." Chairman Kenan asked, "Anyone care to make that as a motion?"

Member Sutherland said, "I am just really uncomfortable with the project. I think it needs some more work. And whether this is advancing the SEQRA review..." Chairman Kenan, "Do you want to bifurcate that? You can always declare ourselves lead agency and hold off on the negative declaration." Member Sutherland, "I'd prefer to do that. I'm happy to ..." Mr. Eggleston, "The Short Form has 7 questions. Would it be helpful for you to review the questions to see..." Attorney Galbato, "If the project is going to change then the SEQR determination might be premature at this point." Member Sutherland, "I think it is." Chairman Kenan suggested, "Well split it in half." **Member Sutherland said "I make the motion that the Planning Board declare itself lead agency under SEQRA." Member Eberhardt seconded the motion.** Upon the unanimous vote of the members present in favor of the motion the Chairman declared the motion passed.

Chairman Kenan said, "We have the number of stories Variance, building height Variance, Site Plan Review, recommendation to the Zoning Board on Special Use Permit, recommendation to the Trustees on Critical Impact Permit, lot size Variance and lot width Variance. What's the Board's desire?" The Chairman continued saying, "I'll make a motion – let me ask this first. Does the Board wish to have further study and review, rather than act on it tonight? And if you want further study and review, what do you want tackled?" Member Sutherland said, "I think the historic front of the building needs some further review. I think the dormer solution that is proposed is too aggressive, too out of character with the rest of the building. As you work east from there, I think by adding this, it pretty much says that most anything goes with other applications coming up in the future and I think that's a mistake. I think we ought to be focused on protecting the historic character, and to the extent that there is something occurring on the fifth floor of other buildings going forward, it should be subdued, muted, pulled back and not pretending to be something historically a part of that building, because it is not." Member Eberhardt said, "I am inclined to agree with that." Member Keady said, "I would like to see a modification to the dormer, but I am OK with the height; falling in line with the rest of the street."

Chairman Kenan said, "In that regard, Bob, that's why I raised the question earlier. If Building height were not an issue under the ordinance, would you tackle that whole front differently? The way I see it, the slope and the dormer are introduced just to come up with an argument that the building is less than whatever the height limitation is." Mr. Eggleston said, "I'm not following you, because this exists. And we are actually just slightly modifying this maybe a foot." Chairman Kenan said, "But my point is -- see the more or less flat part of the building – that's the height of the building. To say that half way down that little slope is the average height..." Mr. Eggleston, "Excuse me. Change your zoning law if you don't like the definition! That's what we're working with. I know we are talking about..." Chairman Kenan, "That's not average. How do you calculate... Anyway, we're getting hung up on words like that rather than what's the real practical result." Mr. Eggleston, "The fact that we're raising this height about 12 inches, and we're going to make it even with what this is and even with this..." Chairman Kenan, "I can tell you. I don't have a problem with that. The issue of the architectural treatment – if you weren't arguing that half that slope is the average – would you treat that differently? So if a different treatment coupled with a Variance for the height issue would solve everybody's architectural issue, that's an approach. It's a pragmatic approach."

Member Eberhardt, "I thought Doug's concern was well stated." Mr. Eggleston, "The one unfortunate thing is because Doug talked and then Bruce talked, I didn't have a chance rebut Doug's comments. This is not Williamsburg, this is not a historic town that we are trying to freeze in time. This is historic district, and the Historic Preservation Commission's job is to issue certificates of appropriateness, not certificates of authenticity [sic]. So the question is would something like this be appropriate within the district? And even the Secretary of the Interior says that the guidelines for working in historic districts is they're living and evolving districts. They aren't frozen in time. You have to do things that are appropriate economically and appropriate to meet the needs of the time and that type of thing. I'm getting a little sense of Doug thinking this isn't the way it has been and it shouldn't change."

Member Sutherland, "I think if you had had the chance to write down my words – what I suggested was something that was more minimal, was less architecturally aggressive, and that, for example of your five schemes, 2e came closer to that. You pulled it back, it was clearly different. If you read the Secretary of Interior standards they don't want you to fake history. They don't want you to pretend like those dormers are authentic and original dormers. They look to change material, they look to do different kinds of treatments so it doesn't look like what it wasn't. And your 2e scheme came closest to meeting those Secretary of Interior standards. It pulled it back, it muted it. It didn't try to compete with the historic three stories that you see from Genesee Street below that. And part of the reason I think I'm uncomfortable with this is it flies in the face of Secretary of Interior standards. We've done historic buildings in other contexts, where we've added on. And part of the approval process is creating something that works with the building and is clearly different – it isn't trying to pretend that that stair tower and elevator that we put on the back of the building is part of the original structure. I think the dormer approach there is sort of pretending it is something that it wasn't. You have a couple of other instances there, the third one pretty much sets the tone that each one is going to be different; despite the fact that the buildings below them are – they are not exact, but they are certainly in the same family. These pieces above are different and in a way that I think detracts from the historic composition of that street. It is a registered street. We ought to be cognizant of that whenever we add something on."

Mr. Eggleston said, "At this point it seems that no one has a problem with the height variance; no one has a problem with the lot area square footage or lot width. Would it be appropriate to refer on... Everyone recognizes that these are all 4 ½ story buildings along here and it's just the way that we have been treating them." Chairman Kenan, "I'm not sure everyone has spoken, but for myself, I would agree with what you just said." Mr. Eggleston, "Would it be appropriate to make a recommendation to the ZBA so we can deal with the variance issue and get that behind us? And hold off on the Special Permit, because the Special Permit is more involved in the issue of the historic features. And again, we will be going back to the Historic Preservation Commission to further try to resolve their satisfaction with the project." Chairman Kenan said, "Well the Special Use Permit is not necessarily related to the historic features, it is related to the impact of the proposal on the neighborhood – very generally summarizing what they are. And the Critical Impact permit is somewhat similar where it is said differently."

Mr. Eggleston, "And again, I put down a response to the Critical Impact questions, which are similar, like you say, to some of the others. I don't know if you've reviewed those or have any disagreement with any of those." Chairman Kenan, "I didn't hear what you just said." Mr. Eggleston, "In the narrative, I have reviewed the criteria for the Critical Impacts. We have not, as a Planning Board, you are ultimately making recommendation to the Trustees for Critical Impact..." Chairman Kenan, "I would say that apparently I disagree with some of your summarizations. I feel that the 40% increase in the density of the use does have an impact, unless there is some compensation made." Mr. Eggleston, "And I guess then I think it appropriate that we spend a little bit of time on that, rather than write this up – because there hasn't been a dialogue on that." Chairman Kenan, "I thought we just had one." Mr. Eggleston, "Excuse me. Then which of the Critical Impact criteria are you having trouble with? That's my question."

Chairman Kenan said, "For instance:

- Location and adequacy of parking and loading facilities.
- Site development plan in harmony with and will not impede the orderly development or redevelopment of the general neighborhood.
- Proposed Critical Impact use will not have an adverse impact upon the character or integrity of any land use within the immediate neighborhood.

I feel that if you increase the size of the building in that magnitude and not make compensating provision for things such as parking, it is just too much. You are having a negative impact. There's just so much you can crowd on a piece of land." Mr. Eggleston, "Right. Right. And as far as density, we comply with the Zoning law." Chairman Kenan, "I am talking about the practical application of those words. This isn't about Site Plan approval." Mr. Eggleston, "As far as the parking, we had that discussion, we meet the Zoning law. And also we are; there is less impact..." Chairman Kenan, "That does not answer the concern. The Zoning law doesn't require you to do anything for parking. It doesn't meet the practical need." Mr. Eggleston, "Right. And basically we probably have about a 200..." Chairman Kenan, "You'd argue that if it weren't for height limitations, that you could put a 20 story building here, and not provide any parking for it, because the ordinance doesn't require any. No. That's not right. You are impacting the community and impacting the neighborhood. You can't increase the size of the building by a very large degree and not provide for those impacts. It's not a matter of reading what the parking requirements are. I build projects all the time that have more parking than the zoning requires – because they need more parking than the zoning requires. It's a practical need."

Member Eberhardt said, "The potential heads-in-beds if you count that potential, could range anywhere from 16 to 24 people overnight." Member Sutherland, "Is that bedroom times 2?" Member Eberhardt, "Yes." Chairman Kenan, "Bob, I'm telling you that I have a problem with the magnitude of the increase in size of development on the site. It is a pragmatic issue." Attorney Galbato, "Which I believe the Board has the discretion and in the application when you go over the balancing test of the Critical Impact issues." Chairman Kenan, "That is what the purpose of the Critical Impact Permits are all about. If it was only a matter of..." Attorney Galbato, "And Site Plan Review balancing test."

Chairman Kenan said, "So we can act on that now, if the Board wants to act on it, or if you want to analyze other factors we can analyze other factors and come back to it later. But I don't want you to leave believing that is not an issue. Because it is an issue. At least in my mind it's an issue." Attorney Galbato said, "If the Applicant is willing to modify the plans as presented as this discussion has set forth with Doug's concerns, we can move forward, because the code allows us, with mutual consent, to continue forward. If it is not, then either we might have to act or schedule a Public Hearing on the site plan. But we do have to; we need his consent if he's going to modify. Or we're just going to act on the plans as presented."

Mr. Eggleston, "Rick, this is not a Public hearing." Attorney Galbato, "I didn't say that it was." Mr. Eggleston, "Right. And so there is no time limit here. I don't believe there's a time limit." Attorney Galbato, "There is a time limit for Site Plan Review." Mr. Eggleston said, "Well I guess my question is would you be prepared to act on the question of the Variance so we can go to the ZBA for the Variance but hold off on the Special Permit and the Critical Impact until some of those issues that you have are better resolved?"

Chairman Kenan, "Well, the Zoning Board also has to act on Special Use Permit – which I think the criteria are very similar to the Critical Impact Permit." Mr. Eggleston, "Correct. Which they don't have to take that up immediately. What I'm saying is the variance issue, let's get that behind us because I don't think that anyone has any issue with the Variance." Chairman Kenan said, "I don't think that moves us forward to do that. If we are going to resolve the issues we ought to resolve the issues." Mr. Eggleston, "What that does, it does allow us to start talking with the ZBA so we start beginning to get their input instead of holding off until everything else is further resolved, you know. I guess, it's kind of like separating the project so we are not making progress, we are talking to only one Board at a time." Chairman Kenan, "Well I don't know how the Board would react. We can make a motion on Critical Impact and Special Use Permit if you want. I've told you what my view is at this juncture." Mr. Eggleston, "And again, I'm not sure that we are necessarily ready. Obviously, we can take your comments on that..." Chairman Kenan, "We really haven't heard from the others; so we can address that if you want. Or we can address the issues that Doug referred to and come back and address those at a subsequent meeting. But I think to not act, if I understand what Rick has said, we probably need your consent."

Mr. Eggleston said, "But at this point you are not ready to make a recommendation just on the Variance?" Chairman Kenan, "I think that is; if you are asking for Zoning Board action, no I think they are tied. We should do them together. No sense sending part of an application down when they don't have the whole picture." Mr. Eggleston, "Sure. OK. Well at this point then I think that I would consent to adjourning to next month." Chairman Kenan, "OK. Is that OK with the Board that we do that?" The members agreed, with Member Sutherland saying, "I think that's the best way to go."

Mr. Eggleston asked, "Does the board have any further comments so that..." Chairman Kenan said, "My point of saying exactly what I said; I don't want you to leave think that density is not a problem." Mr. Eggleston, "Also what I want to leave here with is these are the issues – we're not going to invent some new issues later." Chairman Kenan said, "They are not invented; if you

would be a little careful with the choice of words. Hear what is being said tonight. We are trying to lay out for you what we believe our issues are. Doug spoke, I spoke, I don't know if everybody spoke or not. If anybody has any other issues that are evident, let's talk about them." Attorney Galbato observed, "And we have one member who is not present and he might have issues." Mr. Eggleston, "So from the minutes of the meeting these are the issues and we're not going..." Chairman Kenan, "They are in my mind." Mr. Eggleston said, "So there's no problem with water, sewage..." Attorney Galbato, "I have to object. I'm not going to limit the Board next month as to what issue or issues may come up when they are going through the balancing test of Special use Permit, Critical impact and the recommendation on the Variances and the Site Plan Review." Member Sutherland said, "One solution may spark another issue. I think Rick's point is correct." Attorney Galbato said, "I'm not going to bind one of our members who might not have spoken on this issue tonight or another member who is not present. They can't be precluded from raising issues legitimate under our code and under the balancing test at our next meeting. I object to that 'silence is a yes, or agreement, or consent'. I don't agree to that."

Mr. Eggleston asked, "Has any of the Board members not been able to express their opinion?" Attorney Galbato replied, "They don't have to express it. That's my point. We have one or two members that didn't speak a lot on this issue tonight. They are not precluded from raising issues after further review." Mr. Eggleston, "Sure." Member Sutherland, "Or importantly, Mark Roney has not had a chance to say anything. It's probably premature. What I'm personally more concerned about is if we get a solution that solves one problem, but then creates a new problem, I wouldn't want you to come back and say well, you didn't bring that up before. It seems like we ought to work through this." Mr. Eggleston, "I guess my only question is because we didn't go through each of these Critical Impact questions – I mean we kind of went through them real quick and I can read the minutes and I can try to see which ones you were talking about, but they weren't identified as a,b,c,d,e or f."

Chairman Kenan said, "I can summarize my concerns pretty succinctly. I am concerned about the increase in the density of use on the site without compensating provisions for them. And I think that has to be dealt with in the context of Critical impact and Special Use Permit." Member Sutherland said, "8 and 9 also on the environmental assessment form if that's what you were looking at." Mr. Eggleston said, "No, I was actually looking at the Critical Impact Criteria. But 8 & 9 are the ones that you have issue with."

Chairman Kenan, "Anything else, anybody?" Attorney Galbato, "And he's consented for the next meeting and the Board has agreed to that as well." Chairman Kenan asked Mrs. Blackler, "Pat, did you wish to say anything with regard to this." Mrs. Blackler said, "I might have but I want to think about it now. It's different from what I was going to say."

Chairman Kenan asked, "Is there a motion to continue the matter to the December 6, 2012 meeting?" **Member Eberhardt said, "So moved." Member Sutherland seconded the motion.** Upon the unanimous vote of the members present in favor of the motion the matter is continued.

The meeting was adjourned by acclamation at 8:38 pm.