

Town of Washington Planning Board

A Zoom Meeting of the Town of Washington Planning Board was held on July 7, 2020 hosted by Town Clerk, Mary Alex to consider the applications of Millbrook Winery Special Use Permit, Hegel Wetlands Permit, Bontecou Subdivision, Cary Institute of Ecosystem Studies Solar PV System-Kendall Investments, LLC amended Site Plan and Ruge's Chevrolet Automobile Dealership Site Plan.

Members virtually present by voice roll call: Chairman, Paul Schwartz, James Cornell, Nicole Drury, Ed Jorgensen, Tara Kelly, Bob Kulpa, Susan Meaney, Andrew Spence, also, attorney Jeff Battistoni, councilman/liaison, Al DeBonis, Conservation Advisory Commission Representative, Howard Schuman, Mike Herzog, Village of Millbrook, George Cronk, The Chazen Companies.

The following correction was made to the June, 2, '20 Zoom Meeting minutes, page 17, second paragraph, line 5, replace word ready, with reticent.

Chairman Schwartz opened the meeting at 7:33 P.M., called for a motion to open the Millbrook Winery Special Permit Public Hearing, requested applicant David Bova to summarize the proposal so the public can be familiarized with this proposal. **A motion to open the Millbrook Winery Special Permit Public Hearing was made by board member Spence, seconded by board member Meaney. All ayes.**

The application request of Millbrook Winery Special permit is for additional temporary modular housing for vineyard workers, April through November. **Dutchess County Tax Map Grid No. 6767-00-728034, 774988, 742196**, David Bova representing Millbrook Winery and Brian Houston, L.S. are virtually present to review this application. David Bova said the Millbrook Winery uses outside labor, transitory labor, not necessarily migrants, for the thirty-five acres vineyard. It is harder and harder to find labor to do such; they are proposing building a small house next to the existing house to house their seasonal laborers. These laborers are at the Millbrook Winery from the beginning of March through November, then leave. Presently there is a small cottage next to the winery that houses two to three men; they are proposing to put in a small two bedroom house next to the existing house. They have created a compound of the temporary housing for their farm workers. It is only for seasonal housing. This year all of their seasonal labor comes from California as they could not get any other migrant help which they have done in the past. This year all of their men are Mexican Americans.

Chairman Schwartz questioned board members if there are any questions or concerns that they would like to broach. Attorney Battistoni spoke to the issue whether an area variance would be needed for a setback. Said, he sent an email to Planning Board members about that process, is something that they will have to decide tonight. Chairman Schwartz requested attorney Battistoni to give a summary of the implications of the New York State AG and Markets Rules, how they have a mitigating affect on the capability or the affect that the State will supercede a local rule/regulation, limitation, so that the public understands that the Board is functioning strictly under the Town Code but also this alternative prospective that the State dictates.

Attorney Battistoni spoke to the New York State Agriculture and Markets Law, Section 305a that provides that local government shall not restrict or regulate farm operations within agricultural distance. This is a general statement, then, one is to figure out exactly what that means. What attorney Battistoni has said here, is that, there is a setback requirement in the Local Zoning Ordinance and this proposed manufactured house would be within that setback. Said, that the Planning Board could note that the State has a policy that encourages streamline review of applications for farm worker housing as a way of trying to minimize cost and time involved. This application is a Type II Action so there is no environmental review. The current Site Plan shows three structures which are already closer to the boundary line than this would be, there is also an existing gravel drive closer to the boundary line than this would be. The Board is holding a Public Hearing so anyone who wishes to address the issue can. It seems to him that to refer this to the Zoning Board of Appeals for another public hearing would not be a streamline review. Attorney Battistoni said he thinks this application can proceed without a variance.

Chairman Schwartz stated that the AG and Markets modifications or oversight is to optimize the agricultural production in the State of New York. It has a huge impact for agriculture in general and agriculturally directed activity in a town like ours where such a large portion of the town is in an agriculture zone.

Margaret Doyle, Bangall Road, questioned if there is a map that shows the lot where the proposed housing would be? The Millbrook Winery Site Plan was enabled on the share screen as Brian Houston, L.S. spoke to the proposed location on the west side of the existing winery, the buildings that are closer to the line are three barns that are closer to the side yard setback. The structure that is proposed is small, is six hundred fifty seven square feet, will fit right into that side of the winery. There is plenty of screening between there and the property line, there are quite a few bushes and trees that are shown on the site plan, there is also a large Maple tree. David Bova spoke to Margaret's question saying that the proposed house is on the other side of where she is located. Said, they clustered it all together because they allotted to keep the vineyard team together in one

spot as it is easier for them to manage since they live there it is a lot easier for the vineyard manager to instruct them what to do when they are all in one place.

Board member Kulpa questioned how many persons are going to live in the buildings? David Bova said it is a two bedroom house, the original thought was for one person and maybe a child if they brought them from California. Board member Spence questioned if it is meant to be a single gender or a family in this house? David said it could be a family, could be two males, could be a male and female with a daughter. Said they mostly have male vineyard workers at the moment. Ideally, it could be a male, female situation; he wouldn't mix the two in one house. Board member Spence questioned if there are therapeutic children involved, would there be any way that they are there either as children or children seeking adequate treatment? David said, they get reviewed by the New York State Vineyard Housing Department of Labor for New York State. They come once a year to inspect the homes for vineyard workers. Board member Spence questioned how the seasonal would be? David said, typically March through November, they prune in the spring all the way and harvest at the end of October, maybe early November.

David Bova said it is not his intent to bring in children, its their choice on how they hire, is not something of interest to them because it creates another distraction. Personally, he is not that concerned about it.

Chairman Schwartz spoke to a letter submitted by Anne Wing, adjacent neighbor, which was emailed to the Board, had some concerns. Chairman Schwartz questioned if there is anyone who did not get a chance to read the letter? Due to the lack of response feels everyone has had a chance to read her letter. Margaret Doyle, Bangall Road, asked that the letter be read. Chairman Schwartz commented that it is a long letter, will summarize. Said, the letter talks about the history of her mother who initially developed a relationship with the winery and how there may have been an understanding from her perspective of a driveway, and the perceived impact that the winery has/had on her mother and herself. Margaret Doyle next questioned where one might be able to see this letter? Town Clerk, Mary Alex spoke to the Wing letter, said she can post it on the Town Website tomorrow, can email it as well to anyone that wants a copy. Said, one of Anne Wing's concerns was the setback of the proposed house which attorney Battistoni addressed earlier. Anne addressed the driveway that is being used, also stated that the driveway is no longer being used by the winery. Chairman Schwartz said it was said that the traffic and commercial activity that the winery undertakes was a big concern. Thinks that it is exactly that concern that the AG and Markets speaks to neutralize by supporting agriculture in the State. Mary Alex stated that her interpretation of the Wing letter is that she is opposed to the project.

Chairman Schwartz questioned if anyone else from the public has any questions, concerns, comments regarding this application? Board member Meaney said she has a question for attorney Battistoni. What if this project did get approved, was built, how can we be sure that it would only be used for the purposes for which it was granted? Attorney Battistoni stated that the Board will be granting a special permit and Site Plan approval, the resolution that he will prepare will be specific as to what the use is. If there ever was a complaint the zoning administrator could investigate it and the building inspector as well. Board member Meaney questioned if there is any mechanism by which it could be checked on periodically? Attorney Battistoni doesn't know the answer to that, thinks that typically the zoning enforcement person and code enforcement officer wait to receive a complaint before investigating something like that.

Chairman Schwartz questioned if anyone else from the public or attorney Battistoni has any comments or questions before the public hearing is closed? Attorney Battistoni stated that he doesn't have any other input. Board member Drury questioned what the status of the septic and water supply is for this new structure? Brian Houston, said, Richard Renna, Renna Engineering, Dover Plains, NY has been hired, has submitted a separate septic plan that is located at little north on the other side of the parking area, is under review by the Board of Health. It will be its own separate system, is very small because the house is very small. Chairman Schwartz remarked that this application is contingent on Board of Health approval.

Chairman Schwartz called for a motion to close the public hearing. **A motion to close the Millbrook Winery Special Permit Public Hearing was made by board member Meaney, seconded by board member Spence. All ayes**

Chairman Schwartz questioned attorney Battistoni if he has set up the special permit paperwork? Attorney Battistoni said he has not, he wanted to hear how this meeting went tonight, he can have a resolution ready for the next meeting that would grant the special permit and Site Plan approval. Chairman Schwartz questioned David Bova on the time frame issue relative to getting this completed, will that be prior to his delivery and installation, is that sufficient? David said he is waiting for the Board of Health, it is hard to say how fast they are moving. Said, he has three men in the house now, would move one man into this new house. Chairman Schwartz questioned when he is expecting delivery? David said sometime in the next month or so. Chairman Schwartz said if he is getting delivery in the next month or so then attorney Battistoni's suggestion about getting the paperwork ready by the beginning of next month is sufficient from a logistical perspective, thinks unless there are any questions or further comments David Bova is good to go pending the paperwork being executed. Given the Board doesn't have the permit it is typically referenced upon what attorney Battistoni will produce. Thinks, to wait until the Board sees if the permit and is ready to go. Attorney Battistoni said he

thinks we are going to have to work this out logistically on how we are going to do things if chairman Schwartz wants to have some sort of motion tonight to conceptually approve the application. Chairman Schwartz thinks there is a general consensus to approve this project, but if attorney Battistoni has any condition of the special permit delineated, unless he feels comfortable that we will have no conditions to delineate and it would just be contingent on the Board of Health. Attorney Battistoni said he thinks it is better to have a resolution ready that will be contingent upon Board of Health approval and will explain the Board findings in terms of a non-requiring variance application. Thinks its better to have a resolution,. Chairman Schwartz said he just asked David Bova, he asked to wait until next month for that vote. Attorney Battistoni said the resolution will address SEQRA as well. David Bova questioned attorney Battistoni if the approval is still just contingent on Board of Health approval, is this his understanding? Attorney Battistoni said, correct. David said, then that's fine because there is a lot of work that has to be done on the construction and installation because the foundation has to be built.

Chairman Schwartz stated that this application will be first on the August 8th agenda, the Board will vote on the special permit that attorney Battistoni will produce.

The application request of Maryann Hegel, 450 North Tower Hill Road, is for a Wetlands permit to create a pond on the lower front corner of the property in the existing pasture field that has been kept mowed, surrounded with new tree plantings. The property is zoned R10. **Dutchess County Tax Map Grid No. 6966-00-569484.** (notification of Lead Agency to DEC Region 3, sent May 11th.)

Noone was virtually present to review this application. Chairman Schwartz questioned if any additional materials were received regarding this application? No. Chairman Schwartz stated that initially the Board planned to open the public hearing. Attorney Battistoni suggested that the board open the public hearing and adjourn it, the board was expecting further submission from the applicant and has not received it. Chairman Schwartz called for a motion to open the public hearing. **A motion to open the Hegel Wetlands Permit Public Hearing was made by board member Cornell, seconded by board member Meaney. All ayes.**

Chairman Schwartz next called for a motion to adjourn the Hegel Public Hearing, since no additional materials were submitted by the applicant and she is not virtually present to review the application. A motion to adjourn the Hegel Wetlands Permit Public Hearing to August 4th was made by board member Cornell, seconded by board member Spence. All ayes.

The application request of Bontecou subdivision (Jesse Bontecou) 3 Bontecou Road, Clinton Corners, NY is for a two (2) lot subdivision of 422+/- acres parcel that would create a 174.06 acres parcel on the south side of the Shunpike and leave a 248+/- acres parcel on the north side of the Shunpike. The property is zoned RR 10. **Dutchess County Tax Map Grid No. 6855-00-684936.**

Brian Houston, L. S., was virtually present to review this application.

Chairman Schwartz spoke to the application being the separation of the north from the south side of the Shunpike. Announced that this application is on the agenda for a public hearing on the subdivision of the Bontecou property as delineated in the application. Brian Houston, L.S. provided supporting materials.

Chairman Schwartz called for a motion to open the public hearing. **A motion to open the Bontecou Subdivision Public Hearing was made by board member Cornell, seconded y board member Kulpa. All ayes.**

The Bontecou Site Plan was shown on the share screen. Brian Houston, L.S. described the proposal, said, the property is part of Rally Farm, owned by Jesse Bontecou. The proposal is to subdivide 422+/- acres, 248+/-acres are located on the north side of the Shunpike and 176.06 acres on the south side of the Shunpike. The Shunpike bisects the property. Being it is one tax parcel are proposing to subdivide the south side of the road which contains 12 agricultural buildings, no houses, from the remainder of the farm on the north side of the road. The property is located in the RR 10 zone and also has some LC zoned as well. There are two portions of a State Wetland that are in the rear of the property. There is no proposed development. The property has its own wells located on lot #1 which is on the south side of the road that provides water for these buildings. The property is used as a farm, the only thing that is needed to seek approval from outside of the Planning Board is for the well on the south side of the road that supplies water to the three houses on the north side of the road. Brian has contacted the Board of Health who is working on the relocation of the well on that side of the road so there will be no sharing of wells situation. The north side will have its own water supply and the south side will have its own water supply.

Board member Spence questioned if access will only be from the Shunpike to the property on the south side of the road? Yes, that is where the driveways are. Board member Spence said since there is common ownership it would seem that the other parcel would put in a roadway. Brian said there is no roadway, this was talked about at the last meeting. There is a proposal that hasn't been finalized, that a large portion of all the Bontecou land in this area which is significant acreage (guesses 500 acres), is going to be donated to the Winnakee Land Trust. The answer to board member Spence

question is no, they will be getting their access from the Shunpike right now. Brian spoke to part of the pond being on the north parcel which would be lot #2.

Attorney Battistoni stated that approval will be contingent on Board of Health approval, questioned Town Clerk Alex if the Town will assess the recreation fee for the one lot being turned into two lots? Yes, there will also be a fee for final approval.

Attorney Battistoni spoke to the resolution, he would propose that the written resolution for the next meeting which would summarize this approval and the conditions, would be Board of Health approval, the one recreation fee, contingent on all filing fees, application fee and consultant fee. Brian questioned if there can be a vote tonight contingent upon those things happening? Attorney Battistoni said he doesn't have a problem with that. Brian remarked that there doesn't seem there is any reason to hold up the vote contingent upon payment of fees and the Board of Health issue.

Fernanda Gilligan, adjoining neighbor, spoke to the addition of a second well, with the subdivision happening, questioned if there are any other changes on this side of the subdivision? Brian said there is nothing planned on the south side of the road, what is happening on the north side, like he stated before, is about conversation with Winnakee Land Trust. There has also been some other conversation going on, its just conversation at this time. Ms.. Gilligan questioned if Brian would clarify why this is being done? Brian spoke to two separate pieces of property with a road in the middle, for tax purposes it has only been one piece. It gives the owner the opportunity if they wanted to sell the south side of the road, they could do that and still keep 248 acres on the north side, otherwise it would all be treated as one entity. Ms. Gilligan said she is a little clearer that nothing is going to change.

Chairman Schwartz said he thinks what they have come to us is with a request for the owner to subdivide their land, there is a representation that the northern parcel is going to be donated to a land trust, there has also been discussion that the southern portion strip of that southern parcel might be donated to the Millbrook School. As far as the southern portion is concerned, which is a great concern to Ms. Gilligan, they are not making any representations as to what they may or may not do with it. From a prospective of allowing a subdivision, the Town has no objection.

Attorney Battistoni stated that this is a simple two lot subdivision with no construction proposed. The division line happens to be a roadway so it's a very simple, straight-forward application. There is no expression of any construction of any part of the property. He doesn't think the board has to consider anything beyond that.

Chairman Schwartz called for a motion to close the public hearing. **A motion to close the Bontecou Subdivision Public Hearing was made by board member Meaney, seconded by board member Kelly. All ayes.**

Board member Jorgensen stated, all that is before the Board is this simple subdivision, so there is no reason why the Board cannot proceed on a resolution, vote. What is going to happen to these two parcels in the future is not before the board, we don't know what is going to happen. What the Board is approving is subdividing one parcel into two.

Chairman Schwartz next spoke to timing of the vote to approve or disapprove this application, took a roll call to hold a vote. Board members voted that there is no reason for a delay in the vote. Attorney Battistoni suggested that the Board make two motions, the first, a SEQRA motion to issue a negative declaration that the action will not have any significant impact on the environment, it's a two lot subdivision with no construction. The second motion would be just to approve the application. As he understands, the conditions would be Board of Health approval, payment of all fees, consultant cost, and payment of recreation fee. **A motion to issue the Bontecou Subdivision Application a SEQRA Negative Declaration and Notice of Determination of Non Significance was made by board member Cornell, seconded by board member Meaney. All ayes.**

A motion to approve the Application for Subdivision Approval for the Bontecou Subdivision upon the following conditions 1) assessment of a Recreation fee of \$4,000.00 2) payment of all Application fees and Consultant fees 3) Board of Health Approval, was made by board member Kelly, seconded by board member Cornell. All ayes.

The application of Cary Institute of Ecosystem Studies Solar PV Systems-Kendall Investments, 2801 Sharon Turnpike, is for amended Site Plan Approval.

Chairman Schwartz requested attorney Battistoni to give an update from his prospective. Attorney Battistoni summarized the technical issues. The applicant submitted an amended application for amended Site Plan Approval in February, one or two weeks ago a new submission was made. As part of the application the owners consent affidavit has been properly executed. In an email today, received that the owner's consent affidavit that had been signed by the Cary Institute last time, has been taken care of from his point of view. Attorney Battistoni circulated that email to Planning Board members today. A second technical issue was raised related to the plans that were submitted by Mr. Chaimanis recently, they were based upon plans prepared by the engineer, Timothy Buhl, P.E., who did not update the plan. His original plans had his engineer seal on them, these new plans that were submitted proposed three different options for screening, there was

no seal on them indicating that they came from him, so questioned that issue, did receive an email today with an attachment, forwarded that email to Planning Board members, Nikki Caul, Mary Alex and Al DeBonis. It has the letter from Timothy Buhl, P.E., who is the engineer that included the seal, said, he has no problem with using his map as the base map for these various buffer options. The main issue tonight to be discussed at the public hearing is screening, knows that the applicant has three options, the Planning Board should review those and take comments on them.

A motion to open the Cary Institute of Ecosystem Studies Solar PV Systems-Kendall Investments Amended Site Plan Public Hearing was made by board member Cornell, seconded by board member Jorgensen. All ayes

John Chaimanis, representing the Beacon Triangle Project-Cary Institute of Ecosystem Studies, addressed the Board, said, the Planning Board, Town Board, others, over the last month and one half have been actively involved. In his background has been working with renewals for about fifteen years, prior to that was involved in public education. The original developer of this project was YSG who received the permit for Site Plan approval in 2018. They stayed on to construct the project, was the builder of the project as well. At this point today they are still technically involved but are not active with “running the show.” In May, he was brought in as the owner of a private company to work with Cary Institute who let them know that there was some problems going on with the final phase of operation.

Through their discovery it became clear to them that YSG had attempted in 2019 when the project was built and YSG was waiting to get the Certificate of Operation, there was some back and forth regarding the screening installed at the site which they understood at some point that YSG attempted to satisfy with the zoning variance. Their attempt was to build a tall fence in order to screen the array. That was met with resistance, was not installed. There were a couple of months of floundering at which point they were encouraged to submit an amendment to the project. These specifications came to him afterwards.

When they became involved in May, they learned as much as they could, understood that there were trees installed that died, he took care of those. They reached out to Town members asking what the ideal solution is to this. They immediately proposed trees because that is what they understood to be a resolution that would be palpable. They attended a meeting last month on fact gathering as well as suggestions to install over one hundred new trees to the project. They had a site plan in front of them, the site plan that was approved on had six foot tall trees, fifteen foot on center; they were proposing roughly ten foot tall trees on the same gate, figured that was probably an acceptable approach. Understanding the needs of the Town, they decided that the best thing to do

would be to hold a public hearing. They were encouraged to put together some visual renderings, to put together some site plan schematics and the replacement of trees. Over the last month and one half they also put in some sample plantings, put in about eight or ten new trees, average height of ten feet or higher. They are comprised of three native species, Norway Spruce, White Pine and Concolor Fir.

They put together three options for consideration, the first option is installing roughly 120 new trees which had been proposed previously and addressed some viewshed issues from the south and from the north were previously unaddressed. There were one hundred trees installed by YSG, a number of which have died. Thinks there are about eighty-five now, he did a quick check. The plan would involve installing 120 new trees, maybe will leave some of those in the front row to the back row to fill in, there is a little bit of micro setting that could use it to minimize the viewshed. These are ten feet tall, are fairly short trees that will grow an average between one to two feet per year. Option one, which they have modified from what was presented last time included additional screening. Option two, for those that want one hundred percent natural barrier they have decided to approve a four foot tall fence that does not have any mesh screen upon it currently as planned. They could install a mesh screen on it which would be four foot tall, would add some additional buffer. Option three, would be a seven foot tall fence which can be achieved. They can put the mesh screening on that, would fill in the gaps above the top of the trees until the trees are given time to grow. They are suggesting five years, afterward, the screen would be taken off the fence.

They have put together a Maintenance Plan submitted from the landscape company, they have worked with American Tree and Landscape, these are local members of the community. There was a big turnout from the Town, really appreciates the local encouragement given on this, is hoping that they can resolve this both for the aesthetics of the Town as well as the desires of the Planning Board. Mr. Chaimanis questioned about showing the Site Plan, or to take a pause, whatever would be best. Chairman Schwartz said he thinks Mr. Chaimanis should put up the Site Plan for the benefit of anyone who has not had the opportunity to see it.

Chairman Schwartz commented on Mr. Chaimanis presentation as being one sided. He is not going to fault him on it, understands his prospective. The approval that was previously discussed and passed were based upon representations that are not being made now by him, so its only a one sided prospective. Thinks the easiest way to clarify this is to say, a four foot fence was never offered as a screen, was specifically offered as a security fence which the Board questioned how a four foot fence could be a security fence, but YSG persisted that was all they needed for security purposes. We have a situation we are trying to resolve, so thinks by putting up the Plan that Mr. Chaimanis feels has the maximal concealment potion, after that, the Board, the Town, attorney

Battistoni will have the opportunity to speak its piece, then be opened to a public hearing.

Mr. Chaimanis said the site plan that is shown on the share screen is a sketch plan, drawing, which depicts the project as well as the visual screening. What is represented on the map are green circles, those are the trees that are being proposed, roughly ten foot tall, there would be space on an average between twelve to fifteen feet away from each other, some closer, some further, based on micro sighting, a sum total of 122. It is more than what was previously requested. Along Sharon Turnpike on the northern end near the entrance there are a cluster of trees, a few parallel to the access drive, then runs down along Sharon Turnpike, turns the southwestern corner, then extends in a row about half way along the array. They have done some measuring, had professional photography conducted, had three visual renderings to scale. At this time of year its fully vegetated, but in some of the visual renderings that they prepared they highlighted in red the outline of what this tree would look like where it would be installed.

The security fence that goes around the entire perimeter is shown in red, the mesh screen that they are proposing, would start in the southeast corner and would run all along the south, all the way around the west boundary and across the northern east, west, boundary.

Chairman Schwartz questioned what the vertical line is to the peak of the array? It is 8 ½ feet. Next questioned the height on the front of the panel? It is 36 inches (3 feet,) Chairman Schwartz said, a four foot fence is barely covering a foot of the bottom of the panel. Mr. Chaimanis said they agreed on more greenery in order to get to the topography of where the road sits, where the fence will be installed. There is a slight elevation where the fence will be installed relative to where the panels are installed, said, chairman Schwartz point is well taken. Also, in many cases is much closer to the ground, when these panels are installed they use a medical problem degrade, so if there is anywhere that the degrade goes up the panels remain flat. The four foot tall fence would have a mesh privacy screen installed upon it and would cover the lower portion of the panel. It would most likely not cover the top portion of the panel.

Chairman Schwartz remarked, why doesn't he just say that it would cover at best a foot of the bottom of the panel so eighty percent of the panel is exposed. The question being, is utility an expense of covering basically the vertical support structure and not the panel?

Mr. Chaimanis said the option of a four foot fence with mesh screening is, in some screening does not cover, the trees will be covering the property, it would be a reasonable attempt to shield the lower portion, the top would be covered by a portion of the trees, it was in reaction to some push back about any fence covering what soever. The fence will not be obvious, it will be behind the trees.

Chairman Schwartz remarked, if we are going to see the fence behind the trees then we are going to see the array behind the trees to the same extent. The difference is that prior to Mr. Chaimanis taking over the project the board's discussion was that YSG had two types of fence material that would then be screened by either trees or bushes or other agricultural materials so that a wood fence wouldn't look like Fort Apache. The last suggestion of the Board, at the March meeting was that they would consider either of the two fence materials. At the suggestion of board member Spence would be the first most closely shielded by trees, then between the trees and the road one or two rows of shorter bushes or other species of plants so that in essence the fence would act as an initial visible barrier, then the plantings would act as a barrier to the fence.

Mr. Chaimanis said, they tried to gather all of the facts from the public hearing, understood that YSG was just proposing a fence at the time, the fence was really not desired. This is the dialogue that he is glad to be having, he wants to get it right, make it look right, that's what they have been trying to do. Said, they have engaged engineers for their renderings, are trying to do their best and appreciates the feedback.

Chairman Schwartz called on councilman DeBonis for his opinion, who said, the original trees that were planted by YSG were simply a joke, sadly, didn't come anywhere near addressing the issue of blocking the array from anywhere. We now see ten foot trees there that were represented to us to be twelve to fourteen feet apart, but the example trees that were planted are only nine feet apart. What we see now isn't even going to come near blocking the view of the array when the one hundred twenty trees are put in. Anyone who is looking at the Site Plan is kind of looking at a map of the United States and all of the airplanes flying over the United States, just simply wiped out the entire map because of the size differential. The plantings that show up on the site make it look much more appealing than what it is going to look like in reality. He is not particularly pleased with the proposed tree planting, doesn't think it is going to satisfy our requirements. Said, he will address this in more detail later on as this discussion progresses.

Chairman Schwartz said he spoke with Josh Ginsberg, Cary IES president, shortly before this Zoom meeting. He has a multi layered fact proposal that is warranted to share with everyone on the matter. Mr. Ginsberg said, the greatest challenge right now is the requirement to make the panels not visible, that is part of the Code. If that is part of the Code we need to make this feasible. Trees are not going to fully block any structure. There is a third issue that has come up, at certain times of the year, certain times of the day, there is a glare issue. (due to extremely loud chiming of a clock, portions of Mr. Ginsberg's remarks were unable to be heard). Said, he realizes what we are trying to do is a multi stage approach in which we have something that would block the panels from view, from the road or something close to that. While you wouldn't need an eight foot

fence to achieve that because of the angle of when they are at sitting up at the top of the boundary, the closer the effect is to the road, the lower it would be. An eight foot fence with privacy screening setback from the panels adjusted slightly, would initially block the view of the panels, that is something that is required. He thinks a fence and privacy screening on that fence would block the view of the panels. The first obligation is to make the solar field not visible from the road. With one hundred twenty trees that are being proposed would start to come close to blocking the solar field, it would also bring out the fact that if we were to plant a large growth in the foreground in front of the trees, that would give the angle that would help move things. Thinks that some combination of a taller fence that is screened that solves the ground problem which is an acute problem would solve the visibility problem, initially would break up the visibility of the fence. The screen will also darken the fence so it won't be that obvious. The desire to have it as invisible as possible, we need to bring this to closure, need to come up with is a solution. Thinks that kind of multi-level approach is a good way to start.

Board member Kulpa said, the question on his mind is that depending on the season the aspen of the sun changes, its smaller in winter, its higher in summer. The reflection line of the installation will change with the season. Said, it would seem on the side of safety that a tree of greater height and density would give more screening the year around, then what we are hoping to further develop in three or four years. Thinks it is something that has to be addressed, because as Mr. Ginsberg brought up, there is a liability issue.

Chairman Schwartz questioned board member Kulpa if he has a suggestion relative to the density of the trees or the type of trees? His suggestion would be a tree of at least eight feet and one of species that are being looked at. He would like to know what type of tree is being considered. Mr. Chaimanis said the trees that were recommended to him from the landscape company are Concolor Fern. White Pine and Norway Spruce. The reason these were suggested was because they are a native, are fast growers. Board member Kulpa questioned if these trees were just up for discussion? Mr. Chaimanis said, we have been going to the market and identify trees that were of the height that we are talking about. If we are going with a shorter height, a variety of heights, there will probably be other species. Said, they were trying to solve the issue with trees because they understood that is what people wanted. Thinks Mr. Ginsberg's idea to have some fence is one of the options that they proposed. Board member Kulpa referred to the glare issue, the glare is a life safety issue, in order to put a tree in believes it should be limited to very dense trees.

Councilman DeBonis stated that he heard White Pine was being suggested as one of the species. He highly recommends that he look at what a mature White Pine looks like, there is virtually nothing on the bottom branches of the tree, as it matures the bottom branches tend to self prune off. Is not sure that over time that is going to be satisfactory. Cautions on the species that Mr. Chaimanis selects.

Chairman Schwartz commented on the species, he recently got a quote to spray his Norway Colorado Spruces, they need to be sprayed four times a year for the fungus that causes an annual lower level needle falloff which is resulting in the trees looking like topped ice cream cones. If there are these problems with maintenance, it would be sad to see the expenditure to the extent we are talking about and having to replace the trees as his trees are being replaced, trees that are five, six, years out. Mr. Chaimanis commented that they want a resilient solution that addresses the needs.

Mr. Chaimanis said, the alternatives to a higher fence are livable, are not ideal, but the mesh one is efficient. Board member Jorgensen expressed his opinion, saying, the green mesh would be very effective providing the basic screening is needed, particularly a seven or eight foot green mesh fence. Then, plantings in front will have their plus and minuses. A combination would be the most effective route to getting to a result. Said, he cannot imagine achieving the result with only trees and shrubs.

Attorney Battistoni spoke to the points that were raised by councilman DeBonis earlier, about the species of trees and falloff. Thinks there is a need for a professional arborist consultant for the best input.

Councilman DeBonis spoke to knowing a very good landscaper, but what is necessary here is a professional arborist who knows about the various species and the implications of the diseases that we are currently battling in this area on some of these species. He highly recommends that Mr. Chaimanis look into employing a reputable consultant, professional arborist which is the way to get the best input.

Board member Spence thinks what Mr. Ginsberg said about the use of shrubs really does need to be explored because the trees are such discrete enemies in a small round of numbers so if you lose one or two all of a sudden there is this gaping hole or glare, whereas if you had an array of shrubs, some more dense. A one hundred foot White Pine tree will achieve a height of twelve, fifteen, maybe twenty feet, that's it. Something like Junipers which are extremely sturdy trees combined with other shrubs would make sort of a vegetation shield, thinks this could be very effective for purpose of screening. Said, he also has tree problems on his property, keeps spraying them, is very costly but you do it because the trees are your view. We don't want to have to do that with the Town. We want an array of trees of different species, the bigger the array the better.

Board member Kulpa spoke to councilman DeBonis bringing up the excellent point about the diseases that affect different trees. Everywhere you go there are Wild Fire Lilies growing along the roadside. From his own experience Fire Lilies are the producer of the spread of the Spruce Scroll. Spruce Scroll eventually kills a tree. He would like to

reaffirm about the opinion of an arborist, which is really needed.

Councilman Debonis suggested having two parts this year, one is, as the Board puts this together for their approval they may want to consider a maintenance plan throughout the life of this system for the trees that are there, some kind of replacement policy for any trees that die off, questions, who is responsible for that? His other question is, YSG originally provided us with a sample of full ivy type fence covering that was pretty good looking if you are at a distance. It would probably cover the array. Said, this is just a suggestion, but thinks the Board should see examples of a couple of different kinds of covering for the fence before deciding which one is suitable. From what has been submitted was one foot square, was pretty dense, so you wouldn't see through it.

Chairman Schwartz said the Board intends to work with Cary IES and work with this prior vendor to get this project going, both because it was a green project and because it had direct benefit to Cary IES. The Board depended upon representations of this prior vendor and really didn't challenge, nor decide to go out and get independent verifications because of time and cost that ultimately would be borne by this prior entity. One was of the representations that were made related to a decommission plan. As required by the Solar Ordinance a solar installer is required to provide a decommission at the end of the use of a life. Agreement was made to fund approximately \$25,000 over the life of the installation with decommission at the back end. Given what has transpired, some of the representations that were made by YSG, the prior vendor, not the company that John Chaimanis represents, the Town has sought the advice of George Cronk, employed by Chazen Companies who has expertise in the realm of decommissioning solar operations. Chairman Schwartz next requested George Cronk to walk both the board and the representatives of the applicant as well as the public through the findings he came up with and reference his credentials, expertise, experience, so everyone is aware of his background.

Mr. Cronk said, he has been working with the Chazen Companies for almost eleven years. as professional engineer has thirty years experience. He has done many solar projects over the years. Many years ago focused around cell towers, that is the same thought process that comes from decommissioning a solar system. As a company has done twenty five solar projects so is very well versed with the process of solar projects,

For this particular project is looking at a decommissioning component, is looking at the stats and the cost for decommissioning. There are two parts to this, the first part is to identify the stats of decommissioning and the removal of a system from the property. The parts that were looked at very closely was that this is a ground mounded system so you have spacious structures set in the ground with concrete. They have a valve post that comes up, there is a diagram on how those are arranged or set up, then you have wires

that are connected to invertors, typically have a fencing system around, then you have the disposal and reclamation of the site. In this case prepared a very brief estimate which included the removal of the panels, the disposal of the panels, the disposal of the concrete, the metal, and all those components. Once all of the items are removed, the wires, the connections, everything, you typically want to top soil the area. He also looked at some pricing on that, made an adjustment for inflation, used a 2 % inflation, made an itemized list of each component on the project, as shown on the share screen one can see the quantities that we have right now. At the bottom part of the screen is what is called salvage value, there are some things we might be able to sell. One of the big discrepancies between the two systems would be that unless you have a vendor or a company under contract willing to take decommission solar panels who would not necessarily consider those saleable. Based upon what we have right now, we come up with a difference in the cost of the decommissioning and return the site to what it was originally. If trees are wanted this would change the estimate. At this point, Mr. Chaimanis thanked Mr. Cronk and requested a copy of his report.

Chairman Schwartz questioned if anyone had questions for Mr. Cronk? Board member Jorgensen questioned a days cost to dispose the solar panels, have they somebody lined up to buy them in the sum of one hundred forty six thousand dollars? Mr. Cronk concurred. Said, to unbolt the system, remove them, put them into a vehicle, take them to a disposal facility. Then pay for the disposal. Mr. Chaimanis remarked that they have a very different opinion on the cost and can definitely provide a consultant's fair analysis he can share.

Mr. Cronk questioned the applicant, he believes he has had experience in other installations, does that include installations that have been decommissioned? Mr. Chaimanis said they have had multiple projects in the State of New York that have had a similar type of process done in the planning stages of the project prior to removal. This level of analysis has been conducted with quite different results, will be glad to share some of the other analysis that have been vetted with other towns.

Chairman Schwartz suggested that John Chaimanis and George Cronk speak with who ever is the representative, to get an idea where it came from, so that we can look at the different estimates, questioned if that is acceptable on both sides? Misters Chaimanis and Cronk accepted.

Board member Cornell questioned why the cost is so high for maintenance? Spoke to the decommissioning, anyone who is involved with solar, is familiar wit solar, knows that this does not include the disposal of the modular because it is the biggest cost, also in the solar industry it is almost universally accepted that they don't have a way of dealing with disposal of these modular, that they are environmentally sensitive work and that is

why the cost is so high.

Mr. Chaimanis said they need to bring some experts to the table to share their prospective. Board member Meaney questioned who did the previous analysis? Mr. Chaimanis said he will try to find the file containing this information and will review it. Board member Meaney remarked that this seems to be a very, very, low number. Mr. Chaimanis said he will check with YSG or ask someone from New York State.

Chairman Schwartz said to please make it very clear that this was not a production of Mr. Chaimanis or his group, this is from the prior iteration, for the sake of the public. If there is no representation relative to that at this point in time that is from YSG, not from Mr. Chaimanis group.

Board member Jorgensen questioned whose liability it is, the property owner is Cary, he understands there is a vendor doing the installation, but, ultimately who is responsible and liable to the Town to remove this installation in twenty five years? In the case of a home owner, the home owner removes the installation and is liable to the Town to remove it. Whose liability is it? Mr. Ginsberg referred to Beacon Triangle, LLC, they are responsible for the supervision.

Board member Jorgensen said he understands that but this is the Town of Washington who guarantees. It seems to him that Cary owes the Town of Washington, then Cary goes to its vendor to get the job done. Ultimately it's the property owner who is responsible to the Town. Questioned attorney Battistoni.

Attorney Battistoni said, currently there is a decommissioning bond, which was executed by YSG Community Solar LLC, Beacon Triangle, LLC, Cary Institute of Ecosystem Studies, all being jointed as a bond that was posted.

Board member Jorgensen questioned if it is an insured bond or is this an undertaking of the property? Attorney Battistoni said it is an understanding that is secured by security that is being posted by the bond of \$25,000.00. Stated that these questions being asked are getting far into the future in the thinking. You can always go after the three parties who executed the decommissioning document. You can go after the property in a sense that the cost of the decommissioning incurred by its founder can be assessed against the real estate. However, this is tax exempt property that is owned by a not for profit so that might not be an effective way of going about it.

Board member Jorgensen said it is his understanding that there are experts who give advice to local towns to assist in this kind of review. They are interested in getting these kinds of projects done and are very knowledgeable. Mr. Chaimanis remarked that he has worked with them in the past. Board member Jorgensen said the board needs help with this because local government services in Albany are very expensive. This kind of project is a priority in New York State so he thinks we might get some assistance from the local government.

Chairman Schwarz questioned board members if they have any further comments, questions? Will open the application to a public hearing. Is not really sure how to manage this since this is the first time for a virtual public hearing. In the absence of any further comments or questions, chairman Schwartz opened the public hearing. Said, he can't see everybody's face, there are forty-four participants, if anyone wishes to speak to take off the mute on the microphone. Said, since he doesn't see any other hands being raised, called upon Howard Schuman.

Howard spoke to having a very good round table discussion about what is to be done. He is speaking as a member of the original committee that drew up the solar law. The parties who were there and their backers should have known at that time what the conditions were of the solar law. The town has been very generous to extend beyond the one year special permit which he believes has lapsed, worked with the applicants. Thinks we are coming to a point in time where the board has to decide if it is going to get done or should the board step in and say, we are going to withdraw our extension to you to allow you to connect to the grid and allow you to keep on with the project. In the interest of what was passed to the public at some point may have to take the next step in the process which is to say to the applicant, we are disconnecting you, you have to file a new application, thinks should be given enough time to comply. The board has to make that decision.

Next spoke to the maintenance plan to replace these trees when they die off, is a good idea to get an arborist, thinks that is a good thing, get a better tree selection, would like to see that done. Wants to see Cary Institute, as a good neighbor, use their expertise in the system find out what is the proper planting. Relative to the decommissioning plan, the original presentation was that when they were done they would replace what was there, not the grass seed alone but actually replace what was done. Two or three years ago Chazen gave a twelve page report of what the Chazen people said was on the property, he would like that to be considered as part of the decommissioning plan and as originally agreed to honor that proposal. He can send that file to whoever wants to see it. YSG said they would replace what was there, thinks they can't replace it all at once because it takes time to grow, but the decommissioning plan should be headed in the direction with plantings that would mirror what was originally there so that over time

you would have the same back again.

Chairman Schwartz commented regardless what is planted it will need to be maintained through the life of the solar array until such time as the decommission and will no longer need to be maintained. Requested Howard to forward that file/report to John Chaimanis, not to send it to him,

Board member Jorgensen said there were two issues, screening and decommissioning. What Joshua Ginsberg presented about screening is a way of getting this project done which he thinks is an important goal of the Town of Washington. A greater sense and green mesh and layers of appropriate plantings can provide immediate screening via a fence up front, attractive plantings, the plantings will grow. He supports the approach that Joshua Ginsberg took in his presentation. He had no idea about decommissioning costs, but as long as he knows that the property owner, Cary Institute, and its contractor have bonded to the town, that they are liable for it, the town should look at other projects, invest in and provide for a reasonable advertising and reasonable customary advertising fund understanding nobody knows what it is going to cost to get rid of these panels in twenty five years. That is going to be Cary Institute and its contractor's problem, not the town's problem. As additional security but not as our sole recourse we are going to have a fund, let's get a reasonable and customary one and move forward.

Lois Mander spoke to supporting what board member Jorgensen said, thinks the justice plan is a good one, thinks the berry plantings and an interesting screening which has been planned with a local arborist who knows about the danger of diseases, thinks it's a good way to go forward. As described for the decommissioning in twenty five years, plan now, protect yourselves as best as you can now but go forward and make the best of what this has already become.

John Chaimanis said one of the things he didn't present was the renderings of what the seven foot fence with some trees would look like, would be beneficial to see it at this meeting while we are together. Mr. Chaimanis referred to number seven of the visual renderings of the proposed screening. Town Clerk Alex said this is one that she didn't download.

Board member Kelly said she doesn't think even after we come to some understanding, of what the screening is going to be, there has to be an opportunity for the planning board to approve what has actually been done because the difference between the plan and the execution can vary immensely. Thinks the board needs to have some recourse on that, even on the screening so if the board agrees to some kind of fence and some kind of seed, having an arborist who can give us the sense of having two rows, we still want to be able to revisit it after its done and say, yes its satisfactory or no its not satisfactory.

Julia Hart Widdowson referred to the screening, she would like to talk to Joshua Ginsberg about this. Said, the screening doesn't have to be done with current plantings, it can be done with pollinators, the main thinking is the height of activity.

Mr. Chaimanis referred to various slides, scrolled to the slide which is a view coming up Sharon Turnpike from the south, the next slide showed trees only, the next slide showed the seven foot screen fence that Mr. Ginsberg described earlier, the trees are Pine, are a variety of species. A slide of the coverage was shown because it largely achieves the goal. Julia interjected that there is a tremendous diversity of vegetation, native trees and shrubs.

Mike Herzog, Village of Millbrook, spoke to driving past the site, didn't get as part of the view what he is seeing from the slide being put up about the screening. He didn't feel the trees that were put up are a sample of what we could expect, have done a significant job on the array. The fence may be a solution but is aware that if you go to the actual intersection at the end of the Turnpike there is a very effective berm that was put up years ago to prevent their property from noise as well as view into their property. It is natural. He has no idea what the cost would be for a natural berm of six or eight feet with vegetation as well as trees that could be planted on top of it as well. Its just a matter of what the cost would be in relation to a fence. Many people may not like the fence as a potential solution.

Board member Jorgensen spoke next however was unable to be heard due to the very loud chiming of a clock.

Lois Mander said, the diversity of the pollinators, etc., if you had a beautiful visual at the front of it you are not going to integrate it with what is already planted there. The aesthetic is going to be taking in the first view not looking beyond. The solution for the glare is the fence. The fence plus the existing plantings with some interesting integrated natives thinks could make the persona. Said, she will bring this up with her garden club who might be helpful in the planning or execution.

David Greenwood, Conservation Advisory Commission Chairman said his concern is the visuals that we saw, it all had to do with the same time of day in shadow, What it looks like at other times of the day when the light isn't as chiaroscuro of the shading because it is something that is going to be staying twenty four hours a day from early morning late at night or the evening, it makes no difference. During the day you will see those, thinks that is a concern.

Chairman Schwartz spoke to adjourning this public hearing until next month which will give Mr. Chaimanis and Chazen time to come up with a proposal, have Mr. Chaimanis

come up with further iterations of the renditions, utilize those picture that he took that were bearing shrubbery, so that it really is reflective of what it is going to look like in the winter. That could be included in Mr. Chaimanis presentation as he has the south looking from the Cary entrance, the east looking from Sharon Turnpike, and the north looking from the corner. Thinks that would be his suggestion.

Mr. Chaimanis spoke negatively about the three photos, that they don't work due to the position of the trees and it is not the accurate representative height or location. Chairman Schwartz said he thought it might be a good idea because a couple of people addressed the seasonal aspects of it.

Mr. Chaimanis next spoke to his and Cary IES wanting this to come to closure, is sure this board does as well. Hopes chairman Schwartz and attorney Battistoni have some level of engagement where they can co- actively solve this. He will be working with Mr. Ginsberg, he would like to move this to closure next month.

Chairman Schwartz said he too wants to get this closed, one of the suggestions he made a couple of months ago to YSG was to provide the renditions, provide the materials, leave it with Cary IES, the town hall, put up a sign on the site as frequently done in many jurisdictions that says, this is currently under a public hearing, if you would like to see materials, renditions, they are at Cary IES. the town hall. Thinks it would be a good idea for there to be a preview following his discussion with Mr. Cronk and some outside assistance to come up before the next meeting with some ideas of what that looks like so we can get this closed.

Chairman Schwartz said, from the prospective of the board, heard Ed, Tara, Andrew, make comments about a multi-layered presentation. In March we had the same discussion, Bob, Susan, signed on to that, he signed on to that. Thinks the consensus is that a multi-tiered approach is what they felt would be the best prospective for appearance.

Councilman Debones next spoke to a town board issue, wants some information on not being able to get from Fred Barrett because the Central Hudson representative indicated that he will not provide them with that information but he will be able to provide it to Cary IES, will provide it to Fred Barrett, who could then allow the town board to have the information. This is about who is getting the benefit of the power that is currently being generated which the system is up and running, has been up and running illegally all this time. The town board would like to know who is getting the financial benefit of the power that is being generated and how much power is being generated. There is a requirement or limitation as to how much power should be generated. The town board wants to know if excess power is being generated to the system and if so where it is going.

Mr. Ginsberg said he received the request, recently received a bill but doesn't know what it was for. They were told earlier last year after the solar field was finished that the town was aware that it was connected to the grid. At the planning board meeting last month said, yes, we are getting the credit, they are not holding back that information. They are honest and forthright about that information. Councilman DeBonis said they have tried on several occasions, Central Hudson will not give him that information, said the town board needs that information. There is a law that tells how much can be generated there. The town board would like to know what is actually being generated, see if it meets the requirements of the Solar Law. Said, Central Hudson should not have connected that without having a certificate of completion.

Chairman Schwartz called for a motion to adjourn the public hearing, **A motion to adjourn the Cary IES-Kendall Investments Amended Site Plan Public Hearing to next month was made by board member Cornell, seconded by board member Spence. All**

The application of Ruge's Chevrolet Automobile Dealership, 3692 Route 44, Mabbettsville request is for Site Plan approval for proposed parking lot improvements. The property is zoned HM. **Dutchess County Tax Map Grid No. 6865-03-335381.**

Scott Hutchins, Ruge's administrator and Mark Graminski, L.S., P.E., are present to review this application. A copy of the Site Plan was shown for the presentation by Mark Graminski. Mark said the property is located on the north side of Route 44 and west on Mabbettsville Road. The maintenance project is on that corner, encompass two parcels of land. Said, this application focuses on maintenance of the parking area, involves maintenance and improvements associated with paving an existing parking lot that supports the auto dealership. The proposed development requires improvement by construction of a paved hard surface over the existing gravel parking area, lighting, landscaping, drainage improvements and erosion and sediment controls.

The reason for the proposed drainage improvements is that the existing conditions to this parcel accepts storm water runoff from the northern boarder that led to erosion over the years. It was decided to manage the runoff and filter it back into the water system.

The maintenance of the parking area is to control that runoff that is coming offsite, to manage it, treat it, then control the discharge of it. Much of the same location on the north side of the parking area are draining structures, catch basins, a swale, there is also a berm that is associated with this improvement. On the westerly portion, northwest corner of the property is to control it, then discharge it back to the southwest corner of the property.

What is being proposed with this maintenance and some improvements to the parking area are some lighting and landscaping conditions, shown on both plans are details related to lighting, four lighting fixtures are going to be proposed, are shown on sheet one, there are also details on the analysis for the lighting that is being proposed.

Landscaping is being proposed on the side of the parking area, the westerly side of of the property along the roadside.

Said, he has been in touch with New York State DEC with regard to this project, had conversation with DEC, a storm water permit is required. Construction of the project, development of erosion sediment control plan details are included with the design, are also shown on the site plan.

Mr. Graminski spoke to the rules and regulations of the Village of Millbrook Watershed, this parcel is located in zone three of the Village of Millbrook Watershed. There are requirements under those regulations, site disturbance if actually greater than one half acre, requires erosion sediment control. The disturbance for the site with the storm water improvements are less than one half acre, this part of the project would be included in the erosion sediment control design.

Chairman Schwartz questioned the size of the westerly parcel? 1.45 acres. Said, out of the 1.45 acres they are disturbing from property line to property line , the top half all the way down to the meet point, then disturbing 40% below that.

Scott Hutchins said the disturbance in New York State is classified by a certain action, to dig a trench in the ground would be a disturbance in FICA. If you are regrading the surface of a parking lot, as here, the area of the parking lot that is part of the parking lot is not disturbance as in the SAET. This is very important because that's what triggers a lot of the general permits you might not have to get. Early on this project got confirmation from Natalie Brown, DEC who has worked on some of their projects almost ten years. Said, he wanted to clarify that disturbance very carefully. In reality in this particular project the applicant would reduce any disturbance that they are doing at this site if they let the actual stormwater practices do what they are doing. They are taking that to the next level, provide some treatment to help minimize any future problems by providing a swale around the northern side and divert flows. They have elected to do some treatment in this situation that goes above and beyond the code standards. To calculate the disturbance on a site the fracking area is not part of that disturbance.

Chairman Schwartz commented that this is going to come to the route of the question in this application. On the westerly parcel only, what is delineated by the six sided irregular, questioned how do you define that as a parking lot? Chairman Schwartz thinks that is the route of this application for most complaints.

Scott Hutchins said they actually spent some time looking back on ariel photography in the area for the majority of the plan, the area that Mark Graminski has delineated is shown as parking ground parcel.

Board member Drury questioned if the purpose of this application is because they want a blacktop parking area? Scott said they want an area through parking that is manageable in all climates throughout the twelve months of the year. Currently the surface is very difficult to manage during the winter months. Board member Drury questioned, why is that? Scott said because they are plowing mud. Board member Drury questioned if it would be possible to do a lot of this water management, water control practice that would help that situation without taking over this mess? Scott said when we have frost, when there are two, three, inches deep, as it melts, its mud. If it snows and you have to plow, its mud, "this is a snow man eater." The ability for them to provide space for vehicles in which they can take customers totally into without being needy and unuseable materials.

Board member Cornell questioned if there are alternative materials that can be used beside asphalt that are permeable and achieve the same purpose?

Scott said they need to be palpable, if there is a surface that can be taken up by the plow, he is not aware of any blacktop that is supposedly permeable that the frost can run through. Said, they want an area that they can manage, that they can use for their customers so they can properly present their offer.

Said, the history that has been presented to Jeff Battistoni and George Cronk on what was involved what Audia did years ago to put down a serious number of kinds of materials that were put down to do pretty much what board member Cornell was talking about. That still exists today and is part of the known permeable surface but it doesn't change the situation when you get into the cold weather, get into frost, get into the melting of that and the mud that it is creating.

Board member Spence said, appreciates the functionality of it and what they are trying to achieve. The aesthetic is obviously inconsistent with the character of that corner. Questioned if there is any way that they can economically, effectively, lay down on a scale of a pressed gravel pea stone into the asphalt so it will achieve their plowable surface but doesn't look like a basketball court? Thinks that might be a way to achieve what they are trying to achieve without looking terribly ugly.

Scott said is not familiar with what surface board member Spence is speaking of, he is not sure what is being proposed. Mark Graminski interjected that he believes it would be an asphalt course, then oil and stone on top of that. That oil and stone would come in different varieties, can be a lighter shade rather than the downcast asphalt. He has some samples of that.

Board member Spence said it almost looks like a perfectly level pea stone driveway but its really hard, it achieves what they want without the downside of asphalt. Thinks if you bring down asphalt anyway the addition of that extra material on the asphalt, the asphalt sub straight isn't as expensive in that other cost, doesn't think it's a big difference.

Scott said he will be happy to look at it, again, he cannot speak to it because he is not familiar with it.

Adjoining property owner, Greg Simms, 11 North Mabbettsville Road had a question, however, was interrupted by Chairman Schwartz , who apologized, said that this is not a public hearing, There will be a public hearing for public input at a later date but this isn't the time. Materials will be made available for public viewing

Chairman Schwartz questioned attorney Battistoni if he has any comments about the preferability of this use for this zone? Attorney Battistoni said he has spent some time reviewing this matter, has been at meetings at Ruge's with various people to gather background. The owners of the property are Robert and Peter Audia, Robert Audia serves on the Town Board. They brought copies of their deeds, brought copies of the zoning ordinances that were in affect at the time they bought their property, brought photographs. Said, he is satisfied with what he reviewed, that this is a nonconforming use. In the zoning ordinance some uses are permitted, some require a special permit, then there are uses that were in existence before an ordinance goes into affect, that is the case here. Again, he is satisfied that this is a legal nonconforming use that he can give the board an opinion letter if wanted. The property is zoned Hamlet Mixed Use. Thinks there is a little confusion because the Parcel Access online system lists one of the parcels as residential. That is just an assessment classification for real estate purposes, is not a zoning classification. This use should not be an issue.

Chairman Schwartz questioned attorney Battistoni if he possibly can make the documentation that he referred to available at the town hall for review in case anyone wishes to look at it. Attorney Battistoni said he can pull out documents that he reviewed, also if the board wishes an opinion letter. Chairman Schwartz felt this would be good if this is available for review by the public as fast as possible, before the public hearing so they can review it before the public hearing. Questioned if that is acceptable? Attorney Battistoni said that makes sense.

Board member Kelly spoke to this being a nonconforming use, questioned if there is an issue of it being more nonconforming by aiming it? Secondly, would like to hear from Scott and Mark more about the lighting. Questioned why there is so much lighting, paving?

Attorney Battistoni spoke to the terms of whether there is paving or not, doesn't change the nature of the use. Initially, the owners of the property/dealership made the case that this was maintenance of the property. This might not need an approval at all. Thinks the fact that they would pave does not change the nature of the use, it's a nonconforming use.

Mark Graminski spoke to the lighting issue, said they minimized the older lighting particularly. Associated with the plan involved the lighting company to do a detailed design of the lighting. Some documents show matrix where the lighting intensity is and how far its casting on the site. He received a first review of the project from George Cronk, The Chazen Companies, who notes that the average lighting for parking lots is between two and five foot candles. The lighting proposed here is just above two foot candles. They tried to minimize the lighting intensity on the property, it is something that Ruge's needed for security, tried to minimize the number of fixtures, also, one of the components of the fixtures is driven by the height of the pole. A lot of them in the town are fifty feet. In order to cast light on the necessary area four poles are necessary to do that.

Board member Kelly questioned if he is saying there is a security problem at Ruge's? Scott said there is not a security problem at this moment but in case they ever have a security problem they are prepared, also the need to recognize this during the course of the year, in the winter months daylight is very, very, short. Their hours of operation exceed daylight, this will give them the opportunity to have lighting to show customers vehicles during that time. There are two drawings that show lighting. What the drawings don't show is that the existing lighting and the poles there from Central Hudson, today shine in the east. They shine in whatever that direction is, probably fifty feet in the air, needed to make sure they covered the entire area. These are all going to be gone. The lighting that is on the site plan stays within the property levels.

Board member Kelly requested details on the lighting that is owned by Central Hudson that should be gone, why is it going to be gone? Scott said that they are replacing it, the poles will be down. The Central Hudson lighting is the least lighting that has been there for many, many, years, doesn't know when Bob and Peter Audia put it in but it has been there long before they were there. It will be replaced with the lighting as proposed here, (requested to have the slide on the screen moved down to show that the lighting plan is significant.) Said, you can see within the scope of where they are proposing to sue this parking area where the lighting is. The blue line shows the maximum exposure of that light. These poles are fifteen feet high, there is four lights on each one and they shine down. It is very different than the lighting that is there in existence today. This lighting will be turned on and off based upon the hours of operation allowed by the Code.

Chairman Schwarz questioned if he is saying that these lights are going to be off at 11:00 P.M. Yes, they are. Chairman Schwartz said, from 11:00 P.M. until 6:00 A.M. there will be no lighting on the site. Scott said, that's the law. Chairman Schwartz said he knows the Code, is Scott confirming that is what is going to be done? Scott said the lighting in the site plan is per Code.

Board member Kelly referred to the security issue, it was said there is no security problem right now but they have had problems, what do they mean by that, historically at the site or somewhere else? Where has the security problem been? Scott said, historically there was a fence around this area that Bob and Peter Audia had put in place, in part because the security engagement of the security issue. They have a lot of inventory in this area, it is in their best interest and is required in their insurance policy to make sure that they are properly secured. To some extent this means lighting. Whether they have a security problem today, someone comes in and slashes the tires, takes the tires, whatever, or doesn't, they have to prepare for that, have to address that.

Chairman Schwartz spoke to the lighting, is curious, if the light goes off at eleven o'clock how is that considered security lighting and if a security issue develops are they going to petition the town to let them use it until eleven o'clock at night to six a.m.? What was said seems inconsistent in the thought process. Scott said any security problem that occurs after 11 o'clock at night then their cars will be in the light, would they petition for lighting beyond that, thinks it is a possibility. If there is a problem in Millbrook between the daylight hours and the night time hours eleven to six in the morning, when they are being vandalized, thinks they have the bigger problem.

Board member Kulpa questioned if they are increasing their inventory on this lot if the proposal is approved? Scott said at versus where we are today, where we are at maximum, **no**. Board member Kulpa next questioned, approximately how many cars do they park at this site? Scott said they park up to 130 vehicles in that location at this time. Board member Kulpa further questioned if they are going above the 130? Scott said he is not saying that he won't go to 131.

Chairman Schwartz questioned when is the last time they had an excess of ninety cars on this lot? Scott said between the strike last Fall and Covid 19, we are talking about one third. Chairman Schwartz commented that's fine if a year ago they had ninety, he is just curious, not trying to take apart what he said.

Chairman Schwartz questioned if this is a complete application before the board? Attorney Battistoni said the copy he received were missing a couple of signatures. Mark Graminski said the digital copies he sent to Nancy Patrick did not have signatures. Chairman Schwartz next questioned the date of the August meeting? August 4h. Said, this is short four days for a public hearing, will need to put off the public hearing until September.

Town Clerk, Mary Alex spoke to Mark Graminski sending his comments to George Cronk. Mark questioned if he corresponds directly to him? George acknowledged fine as long as the board has been copied. Chairman Schwartz questioned if George Cronk is acting on behalf of the town or the applicant? Town Clerk Alex said on behalf of the town. Chairman Schwartz questioned George if he submitted a report to the board. Yes, he should have received a copy. Chairman Schwartz questioned if anyone else from the board did not receive a copy? Town Clerk Alex said a copy was emailed to everyone yesterday afternoon.

Councilman DeBonis questioned attorney Battistoni, said the planning board meets monthly, same day of the month, because it is not a thirty day period, is it fair or is it legal that we have to bring it over to another month? Why can't an adjustment be made to address this issue next month? (Said he is looking out for the applicant.)

Attorney Battistoni said sometimes when an application gets referred somewhere, there are thirty days to respond, there is nothing you can do about that. It is not something you can waive.

Chairman Schwartz commented, being the parcels are on a highway, requires site plan approval, questions if this requires notification of lead agency to the town? Attorney Battistoni said a 239M Referral needs to be made to County Planning. Chairman Schwartz remarked, as a result of that the board needs to wait a thirty day minimum. Attorney Battistoni said, we do, they try to get out their response as soon as possible but we don't know whether that would happen. There is usually a written response from the County. The question of scheduling a Public Hearing for September was presented to attorney Battistoni. Said, the board has to.

Town Clerk Alex stated that secretary Caul will make the 239M Referral to Dutchess County Planning and will schedule the Public Hearing for September 1st.

Chairman Schwartz spoke to this application potentially being associated with the aquifer, the board should reach out to the CAC for their opinion. Board members were in agreement. Chairman Schwartz directed representative Howard Schuman to do an evaluation and submit a report for the next meeting.

Mark Graminski questioned Chairman Schwartz if the planning board is to schedule a site visit? Chairman Schwartz questioned board members if they would like to participate in a site visit? Board members agreed to a site visit. Chairman Schwartz stated if there is a quorum then we now have a meeting, questioned attorney Battistoni if this is an issue having a quorum for a meeting? Attorney Battistoni said, yes, in a technical sense that is correct, if you have a quorum of the board together it acts as official business, is

subject to the Meetings Law. Mark said that he can do multiple meetings. Chairman Schwartz questioned how to facilitate this so it would be easier for Mark? Mark said he will give board members his email address, they can reach out to him. This was acceptable to board members. Scott Hutchins said he would like to be included in the site visits. Mike Herzog spoke to the application being within the aquifer area and should also be included. Howard Schuman, CAC representative wishes to be included.

A Public Hearing is scheduled for September 1st.

There being no further discussion, comments, business, the meeting was closed.

Respectfully submitted,

Nikki Caul, secretary

