

TOWN OF GREENFIELD

PLANNING BOARD

FEBRUARY 26, 2008

REGULAR MEETING

A regular meeting of the Town of Greenfield Planning Board is called to order by Gary Dake at 7:30 p.m. On roll call, the following members are present: Gary Dake, Lorna Dupouy, John Streit, Michael Thraikill, Tonya Yasenchak and Michael Ginley. Thomas Siragusa is absent. Gerry McKenna, Zoning Administrator and Charlie Baker, Town Engineer, are present.

February 12, 2008 MINUTES

MOTION: M. Ginley

SECOND: M. Thraikill

RESOLVED, that the Planning Board waives the reading of and accepts the minutes of February 12, 2008 as submitted.

VOTE: Ayes: Dake, Dupouy, Ginley, Streit, Thraikill, Yasenchak

Noes: None

Absent: Siragusa

G. Dake congratulates M. Ginley on his appointment to the full board position for the Planning Board seat vacated by Dan Cochran. Next month, hopefully, the Town Board will appoint an alternate to fill M. Ginley's seat.

ALBERT ANDERSON - Special Use Permit/Site Plan Review

Albert Anderson is present and is applying under Section 105-22-C-3. A. Anderson states that he is located at the corner of Route 9N and Bockes Road, he has two trucks – a pickup and a 1 ton truck - most of the business is done away from the location as he has a roofing business. G. McKenna states that the applicant has been living and working there for 26 years and he has had no complaints. J. Streit asks about storage of materials seen from the road. A. Anderson states that sometimes he has left over shingles, they are on a pallet, and he is planning on putting up a fence so that will not be seen. M. Thraikill states that he drives by there quite often and has no issues. It seems like there are a lot of ladders and stuff around, it seems like it is neat all the time. T. Yasenchak states that it seems that everything is stored inside, there are no customers coming to the location. C. Baker states that he drives by here a lot as well and has no issues. A public hearing is scheduled for March 11, 2008 at 7:00 p.m.

ROBERT RICKARD – Special Use Permit/Site Plan Review

Braim Road

G. Dake states that in the absence of R. Rickard we will open a public hearing and give the residents who braved the elements an opportunity to speak. We will not close the public hearing tonight but adjourn it to the next meeting. Anyone who couldn't make it tonight will then have an opportunity to speak at the next meeting and anyone who did come tonight will not have to come to the next meeting. A public hearing is

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opened at 7:06 p.m. G. Dake explains that R. Rickard has a piece of property at the corner of Copperfield and Braim Roads where he is requesting, under Section 105-22-C-3 which is a continuation of existing activities, the right to continue the business as was agreed to in the fall of 2004 correspondence with the Town, no expansion from that, storage to be in the building only and limited to one truck. G. Dake explains that Section 105-22-C-3 only allows for the continuation of what currently exists, it does not allow expansion under that section. Any further expansion would have to come back. Joe Mastrianni, Copperfield Road, states that he is a few driveways down from R. Rickard's property, the applicant is operating a trucking business there. He has three young children, they ride up and down the road, and in fact, many of the neighborhood kids come to Copperfield to ride up and down that road. He does not believe in this residential area that a trucking business should exist. It wasn't intended to exist ever, it is only recently that the one truck was allowed and as he drives by he does see much more equipment storage than was referenced in the last public hearing. The applicant is really operating a business that is beyond the scope of what he indicated last time. In a residential neighborhood like this where there are no other businesses whatsoever of this type anywhere near it, he thinks it is an inappropriate use. He states that for the safety of the children who play on Copperfield, he wishes that the Board would do something to prevent this continuation. Annette Quarrier, Copperfield Road, states that she and her husband moved to Greenfield about 6 years ago because they loved the quietness of the area. Probably for the first two years there wasn't any problem until around the time that the applicant put a driveway from his adjacent property onto Copperfield. She states that it is not one truck. She wakes up to a diesel engine running 5:30, 6:00 a.m., for ½ an hour at a time, back up beepers, etc. She has had people over who think that there is a construction site next door, it is very loud. She references what G. Dake said at the last meeting that it is the job of the Planning Board to evaluate the impact on the neighbors. She has no problem with one truck and if it is what he uses to come and go from work, but that is not what she is seeing. She agrees with J. Mastrianni, and maybe now with the snow you cannot see everything, but there are barrels being stored and all sorts of things. Her husband is concerned about hazardous waste. Christopher Payer, Braim Road, states that he thinks that the intent of one truck being brought home and to leave with it was to go work somewhere else with the truck. He provides a copy of a history of correspondence and citations on the property. One of the things that R. Rickard referenced at the last meeting was that he had an agreement that he was living by. He moved here and built, then as A. Quarrier said, there was nothing really happening, then he built his barn to house his truck and then he started coming into his other property as a thoroughfare. Then he was storing lots of equipment and having other contractors pick up and drop off on the site with multiple trucks in and out all day. It wasn't until 2004 when some of the concerned citizens wrote a letter about this that this type of agreement seems to have come into place which, as he looks at it, was really more of a citation of violations with a response from the Town saying that he was in violation and a response from the applicant's attorney saying they were not confirming anything. He states that it seems like a rather loose conversation rather than an agreement and there has been a history even after that of two other citations of violations on that site. With the history of things escalating, none of the residents really trust the applicant. If he were to continue any type of operation, even with that one truck, they believe that he would simply escalate that and try the same type of cat and mouse game of one truck at a time, all day long. If he has the right to work on his trucks, power wash them, grind them down, it would be one truck at a time of his fleet all weekend long. If it is one truck that is allowed there, C. Payer states that he would like to see which license plate, which truck and to really limit the amount of equipment that is stored there. G. Dake states that the request is for one truck at a time, not one specific truck. C. Payer states that he would think that the intent of the town was not to have multiple shifts coming out of somebody's place of residence, swapping off trucks in a fleet to either fuel them or work on them, it is more that someone has a truck that they drive to a place of work and then bring it home at night. He states that R. Rickard had made the comment that the town grew up around him. R. Rickard's business has also escalated. It was not there when he first moved there, it was somewhere in Milton, he then moved his garage and started escalating. C. Payer states that what he does not see in any of the zoning or any of the issues put forth in this town is to address at what point does a business that has sort of been incubating in someone's house and growing, need to go find a separate site because it no longer fits where it is because of the nature of what it is or how it is growing. On the last page of the packet he provided, C. Payer went through the zoning book and looked at everything in the zone and all the violations that he had saying that one truck was

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allowed if it met these criteria, and every single criteria in there was violated. He asks the Board to take that into consideration as they look at this carefully because there seems to be a history of non-compliance, there seems to be a history of escalation, it doesn't mean people can't change, but none of the neighbors trust the applicant and want to make sure that the Board is making the right decision in how the Zoning Law is interpreted, because it seems as though, even though there is a zoning code, it is a hard thing to enforce especially when you are not there all the time and the residents see this sort of cat and mouse game of in and out trucks with delivery and pickup all the time. Bob Catanzarita, Braim Road, lives directly across from R. Rickard. He states that if you look at the applicant's request, it says not for what the town granted him the one truck, no impact and a non-conforming zoning, but for a storage and repair center. There is no screening and the applicant had stated that he had been doing this since he bought the property in 1994. The application asks if there are any zoning violations on the property, the applicant responded no and the answer is yes. To the question of if there have been any Planning Board actions against him the applicant replied no, and that is a yes and to giving an explanation it would be that he is a repeat offender. B. Catanzarita asks the Board to discuss the methods that they anticipate in protecting the residents as these commercial businesses move into their neighborhoods. G. Dake states that the Board will be happy to at the end of the public hearing. B. Catanzarita states that the Board should keep in mind that this is a commercial activity, nothing close to what R. Rickard stated. He provides information from that particular fall that shows that his lawyer had to contact the Town with a threat of a law suit because the Town was not enforcing its zoning. B. Catanzarita states that R. Rickard moved into the area and a friend of R. Rickard's told B. Catanzarita 10 years after he moved in that he was intending to move his operation from his Rowland Street construction site to his residence. B. Catanzarita states that he immediately went to G. McKenna who told him that R. Rickard could not do that. B. Catanzarita states that he called G. McKenna once a week at least, and within a month of Judge Viscardi contacting the Town and speaking to Mr. Stokes the Town finally moved ahead and granted R. Rickard one truck in and off his property. B. Catanzarita states that G. McKenna would tell him that R. Rickard could have one truck in there and B. Catanzarita says that the zoning says he can't. Finally after several months G. McKenna told B. Catanzarita that he could not stop the applicant from bringing one truck. He understands that and that the applicant has the right to bring one truck off his property and come back at the end of the night. From there everyone had the consensus that that was reasonable but R. Rickard had been violating that and they wanted it to stop. B. Catanzarita shows the Board photos of the Rickard property and states that not one is R. Rickard's truck coming in or out of his property. He states that through the months of August, September and October he sent numerous e-mails to former Supervisor Janik with photos of the trucks coming in and out. It got to a point that it was very hard to document and the e-mail is a professional filing system – it is time stamped, it can't be corrupted. He started sending e-mails with the times in and out of the vehicles – 20 to 50 times a day past his house, between the Rickard trucks and contractors. He states he had to get an attorney involved to stop R. Rickard. The Town was too busy, too much going on to stop it and he had to threaten the law suit. That was September 12, 2002 and by November 12, 2002 the one truck agreement came into effect. It was pushed by Judge Viscardi to Mr. Stokes down to G. McKenna. B. Catanzarita states that some of the photos show Rickard trucks parked in front of B. Catanzarita's house. He states that the town was given a CD of a tape recording of all of these also. The truck will sit there idling for an hour. It is his harassment to say that he can do what he wants. He states that other trucks are being repaired at the site. B. Catanzarita states that R. Rickard is a neat man, he is not a bad person, but he does think he can do anything that he wants. He states that G. Dake had suggested not arguing with the neighbors in the two week period and B. Catanzarita states that he found that very offensive as R. Rickard initiates most of this. He reviews a handout with notes stating that zoning laws are meant to segregate uses that are incompatible and reviewing the history of complaints. He states that it takes the applicant 1 ½ hours to wash a truck and it is literally 3 – 4 hours that he has to listen to the applicant wash his truck. B. Catanzarita states that the building permit requested for the barn said a horse barn. G. McKenna states that he believes it said garage. B. Catanzarita states that he met with R. Rickard, and that his grandfather was an iron ore miner as was his father who was also in construction. He told the applicant that he knew what he was trying to do, but that he had to respect the neighbor's rights too. He states that R. Rickard did not agree. He states that the Board should have copies of the CD's that he brought to the Town. He states that the town should not grant the applicant a special use permit, he is a repeat violator in contempt

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of the laws of the Town of Greenfield, in the past and in the future. At best it should go back to what it originally was – the applicant can have one truck. B. Catanzarita states that R. Rickard doesn't even live at this residence anymore. He is totally against the Special Use Permit because once he gets that, there is no way the Town is ever going to take it away. Once it is granted it would have to be determined by a court of law what it really means because the Town's zoning laws are wide open. He asks if the Town ever asked for an inventory of the applicant's equipment. B. Catanzarita shows photos of the old construction company and pictures of the applicant violating it. G. Dake states that if the photos are of the old property, they are irrelevant to this case. B. Catanzarita states that they are to show a time stamp of when he was at his old place. Theresa Ellsworth, Braim Road, states that her property borders R. Rickard's property to the north. She states that they purchased their property and moved here in 1974 when it was just a few farms and have watched the road develop. She states that when you first live in a place you do not want it to change at all, but they have been very, very fortunate because the road really has developed according to the zoning with the wonderful Planning Boards and ZBAs that the Town has had through the years. She states that in 1992 the farm next door went for sale and that was the first farm to go, the developer at that time Tim Halliday came forward with a plan that was within the zoning and he made many commitments both to the Town Board and to the neighbors that he wanted to develop that property according to not only the zoning, but the rural and residential characteristics of the road as it was then. That is the subdivision in which R. Rickard purchased his lot. She states that she believes the R. Rickard and his family have lived there since 1994; she has known him for a number of years and knew his wife as a young girl; R. Rickard is a hard working man and he does keep his property in very good shape. She states that she is not in favor of him receiving this permit, but she does have to thank him in that on different occasions he did come to her home. He lived on the property for 5 or 6 years and kept his equipment at the site in the Town of Milton, he came to them and told them he wanted to build a two car garage. She states that it is a great design, it is a tall garage and you would never know it because of the way it is built down into the embankment. He told them that he was going to keep his small dump truck and backhoe there. They were only going to be there when they were not on the site of some job and would not be bringing them back and forth every day. A couple years later he came to them and told them he was going to buy a tri-axle dump truck and they felt that they were far enough away and that as far as they knew, he could bring a truck home, but that he should check with other neighbors. After that he did stop going to the Ellsworths and his equipment just increased. T. Ellsworth states that she feels that somewhere along the line R. Rickard lost site of the fact of what the purpose of that development was for; she thinks he has lost site of the fact that his neighbors moved there for a particular reason; maybe he has forgotten that he is not the only person on the road who has his own business. There are 9 other residents who own their own businesses. Out of those at least 3 or 4 have large enough businesses that they have either bought or leased storage space. She understands that it is very expensive and the great temptation to have everything right there, but he is the only person on the road, to the best of her knowledge, who has really brought his business into the residential area and shown that he has no regard for his neighbors or the laws of the town. She provides a letter to the Board. Archie Quarrier, Copperfield Road, states that he would like to echo T. Ellsworth's comments that R. Rickard has made great efforts in trying to run a business and be respectful. The two main concerns he has are that the business is being run with in the EIS codes, Environmental Impact Statement, and the use of the property on Copperfield Road where there is a sign listing real estate for sale yet there is also equipment stored on the property which abuts his land. B. Catanzarita states that he is 10' off the road versus other neighbor's. He states that he asked R. Rickard to use the entrance at the south end so that he was not going by B. Catanzarita's house. J. Mastrianni states that he believes that there is a weight limit on Braim Road and that the trucks, even when unladen, are exceeding that. He believes it is an excessive use for the area. C. Payer states that the repair and maintenance of the trucks is a very dangerous thing to allow. He states that it is one thing to bring a truck home and drive it out to work, but if repair or anything like that is allowed, there should be some limits on when it can be done and on what trucks, that he can't be bringing fleets home, etc. Annette Quarrier states that because Copperfield is a cul-de-sac it is used by the children along Braim and Cooperfield Roads to ride their bikes, etc. She states that she cringes sometimes when she sees the trucks coming in and out of Cooperfield and the kids are playing. She feels that it is not just R. Rickard driving a truck home from work at the end of a long day, it is other people driving trucks in and out. Mary Kay Asay, Braim Road, states

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that over time, 7 ½ years, every time she takes a walk it is kind of a psychological thing when she walks past the Rickard property that she is walking by someone's existing business that has insidiously grown over time. For her it is a psyche thing, why is that there? If the zoning is such that it is not allowed, why is it allowed? At what point does the insidiousness get put in its proper limitations. All these great neighbors and sense of what the neighborhood is about and then there is this property that, on a psychological level, is a construction entity that is growing. G. Dake adjourns the public hearing at 7:47 p.m. to be reopened at the March 11, 2008 meeting.

WILLOW POND PROPERTIES LLC – Special Use Permit/Site Plan Review

Grange Road

David Shorkey, Willow Pond Properties, states that at the last meeting he provided a traffic study showing that the sight distance was only minimally or marginally acceptable. He states that he believes that Mr. Gay's analysis was based on a driveway and that C. Baker's analysis refers to this as an intersection which increased the stopping distance to 445 feet. C. Baker's letter states that the sight distance is a critical issue and it appears that it may be difficult to comply with AASHTO requirements and suggests that further evaluation be completed. D. Shorkey states that they have contacted Creighton-Manning and no one has been available to speak with them. He spoke further with the Northeast Land Survey people about this and they said that there are a couple of things that could be done and the most compelling one was a right only in and right only out of the driveway. Another firm may come up with other ideas. C. Baker states that there is a correction to his letter, the 445 feet should actually be 500 feet. He states that the only comment he has is that this Board has been very diligent about sight distance in the past and in evaluating properties from a safety standpoint. The idea is that if there is ever an accident at that intersection and the Board has approved that, if there is the strong possibility that the Town would be dragged into a court of law, they will have to defend that decision. If that were to happen, we would want to be able to pull out a report that was done by a traffic engineer that says and proves to the Board that it met the accepted standards. Safety is something that we have not compromised on and he would not recommend to this Board to compromise on it. G. Dake states that one of the things, as he investigated this a little further to try to think about possible solutions, one dilemma that we are faced with here is that the current occupant has never received any type of approval from the town to be operating her business there. That is why there is a change in the Town's liability. She took it upon herself to start a business there without any approvals so the Town had no culpability. One of the arguments that someone made was that Dr. Kelly already has patients in and out, but that is the reason for that difference. G. McKenna states that the buffer required is only 10' from the parking area. G. Dake states that if the applicant has to expand the impervious surface, then we are going to have to demonstrate stormwater. He asks C. Baker if there is no change to impervious surface, there is no requirement to do stormwater analysis since the action would not be creating any additional stormwater. C. Baker agrees. G. Dake states that we would need some sort of septic certification, dumpster location, etc. The big issues being the buffer, stormwater, and the sight distance. L. Dupouy states that she is not adverse to the right in/right out. She states that she banks at Adirondack Trust on South Broadway and it takes a little getting used to but when you look at it to have a doctor in our Town, she thinks it is worth it. She asks C. Baker if adding the two spaces for the handicapped, even though it is on the other side of the driveway close to the building, even just paving that little area and it doesn't add to the other, that would require stormwater review. C. Baker states that the problem is that it is a modification to an existing site. J. Streit states that he would like anything to have this project go through but not at the cost of safety and he thinks that some of the residents who live nearby spoke quite candidly and with a believable element. Right in/right out is interesting, he had not thought of that before and he would like to explore how this works in other places, how it can be enforced, etc. To him it would mitigate the issue if it was done that way and could indeed work out. M. Thraillkill states that he would like to see a traffic study first regarding that. Tom Sweenor asks if the applicant is asking that this property be rezoned commercial? G. Dake states that they are requesting a mixed use building which is an allowed use within Town Center. D. Shorkey states that before they invest in a survey, if this is a stopping point, they would not go ahead with the survey. T. Yasenachak states that she

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would like to see another plan because of the landscape buffer as the parking is very close to the property line. To weigh in on the sight distance, she is at a little bit of disbelief that right in/right out will work, because if someone is coming to the office who lives in Milton they are going to come right up Grange Road and they are going to make a left in. They are not going to go to 9N and come around. She states that we can say it is only right in/right out, but in reality she does not think that it will happen and we have to be conscious that we can think those rules but there is no way that it can be enforced and ultimately people are going to continue to turn in there errantly. She is also concerned about what the 10' buffer is going to do with the parking and if they are going to be able to fit everything in there as well as the turnaround space. M. Ginley states that he is not opposed to the right in/right out if they can somehow have the angles at the road to somehow force it, and then there are the neighbors who live around it that people are going to be pulling in their driveways to turn around in. Somehow we would really have to have the doctor let her patients know with maps or whatever. He likes the concept but he does not know if it will work. D. Shorkey states that the Trustco at Route 50, south of Ballston Spa, is a right out only and you plan your route to go there and that is the way you go. They do have the curbing to direct people to go that way and signage. He states that a couple years down the road, maybe the doctor could have other options and turn that into a residence only. M. Ginley states that he is kind of in favor of it, that possibly it could work, because you are only going to not do it once. If you are a repeat patient, you will know that it is right in/right out. G. Dake states that it is interesting and worth exploring, and if the traffic engineer certifies it, that would remove us from a liability standpoint. It is not a perfect solution, he likes the idea of a creative solution but is worried about the ethicacy. We have done some no left turns, one on a residence that in hindsight was a bad idea. L. Dupouy states that we have one on Whispering Pines. She states that she would look forward to it as a great debate for us to have because there is the importance to have a good vibrant town you do need a good doctor's office and the other part is that you try to legislate to the best of your ability but you cannot make rules for every person in every situation. At some point people have to be responsible for their own actions. You want to try to do the best you can, but at what point do you cut that off. G. Dake states that it is not a stupid idea, it is not a clear cut one way or the other. There is a lot of room for some very good debate on it and quite frankly that is healthy. Usually we just lay the traffic off on C. Baker. In this case if we do come back with something from a traffic engineer that states that this would allow them to meet AASHTO, it can create a debate and quite frankly if he is concerned not only about the people who might get injured but potential liability for the Town, the fact that we have a debate and lengthy discussion about it, says that we were not just flippant about the subject. That would not hold up in court, but if we have a debate about the ethics and whether people would really go around the block. We need to see a proposal that shows that and that they view it as safe, that gives us a starting point for a discussion. He reviews the other items that must also be addressed. J. Streit asks for clarification on the nearby streets and discussion takes place as to the direction one would be coming. Tom Sweenor asks if Anna Crest was designed as the type of road that was going to be taking this kind of thoroughfare as is being suggested. G. Dake states that the Board is not suggesting anything, Anna Crest is a town road and is fully available for access. A question is raised as to the amount of buffer. G. Dake states that the public hearing was held at the last meeting.

MICHAEL CZUPIL – Special Use Permit/Site Plan Review
Bockes Road

Michael Czupil was unable to attend tonight as he was called in to work. G. McKenna states that the applicant is applying under Section 105-22-C-3. He has had animals there since 1975 and G. McKenna has received no complaints. He would just like to be able to continue the use. G. Dake asks how far down Bockes Road this is. G. McKenna explains. A public hearing is scheduled for March 11, 2008 at 7:00 p.m.

DISCUSSION

A resident at the corner of Anna Crest states that they did not know about the Willow Pond public hearing. They are not adverse to the doctor, but they have concerns.

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Francine Grinnell, Route 9N, states that she is a reporter and photographer for 4 papers and enjoys the process of local government. She states that she is concerned because when it became her turn it was her intention to be at every meeting like every homeowner. Like a lot of people it isn't until something is literally in your backyard that you come down. She states that she was not notified and is here because she stopped in and spoke with R. Rowland after she began to see trees drop from D. Murray's property. Apparently he has had a subdivision approved that she was not notified of. She states that she understands that there isn't any clear policy about notifying people. She would like the opportunity to participate in the Town's development and be clear what the policy is. She spoke with D. Murray directly about the trees that have fallen on her fence and his response was that they belong to the nextdoor neighbor. She called on the neighbor and there was no answer. She will pursue that. G. Dake thanks her for going to her neighbor. He explains that it used to be that only Special Use Permits required neighbor notification and subdivisions were only advertised by legal ad in the newspaper. We have asked the Town Board to amend the zoning ordinance and subdivision code to require that same level of notification be taking place for subdivisions for exactly the same reason F. Grinnell has stated. F. Grinnell asks what the Planning Board needs because she will go and get it. G. Dake asks R. Rowland if the Town Board has taken action on that. R. Rowland states not that she is aware of. G. Dake states that F. Grinnell can contact the Town Supervisor or go to a Town Board meeting. He states that the Town Board brought it up to him so he knows that they are sensitive to the subject. He does not know why they have not taken action. F. Grinnell states that she could write a letter or an article. She states that this a wonderful place to create and that in the conversation with D. Murray she was concerned that she would be facing a summer of construction activities. He indicated to her that it is going to take a while as he is working on a project out of state, this probably won't happen for a year and that he would be starting on a different lot, not the one in her backyard. G. Dake suggests she contact the Town Board and asks R. Rowland to follow up with the Town Board. F. Grinnell asks a couple of questions not related to the Planning Board

G. Dake suggests that the Planning Board take a look at the keyhole lot section. As he was sitting through the Planning Board interviews and was in a room with A. Janik, T. Kinsella and D. Cochran the subject of keyhole lots came up. We never changed that definition. It still says only in rare and unusual circumstances. He states that he thinks that the Board has evolved beyond that and we should go back through and think of proposed language that we would like to suggest to the Town Board on how to make it something that is a tool. He suggests looking at the wording that is in the cluster section where it is at the Board's discretion whether an applicant gets to cluster. Some similar approach for a keyhole lot may be a way to address it.

G. Dake states that he had a call from F. McNeary, Jr. that he had heard that in the Saratoga Springs Planning Board there was a project on Birch Run's property and in their presentation they said that they would be selling water and sewer services to Saratoga Polo. He explained to F. McNeary, Jr. that we had not heard that at this Board, but if they choose to do that it would be no never mind to us. That would not be something that we would necessarily object to but we had not seen a plan suggesting it. Also, F. McNeary, Jr. is very concerned about the response time from the Fire District and wants to see if he can get switched from Fire Company 4 to Fire Company 1 as his coverage district. G. Dake states that he does not believe that is a Planning Board item. He will give the Fire District liaison a call.

Meeting adjourned 8:27 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary