

1 **MEETING MINUTES - DRAFT**
2 **GEORGETOWN PLANNING BOARD**
3 **Wednesday, April 10, 2013**
4 **Memorial Town Hall – 3rd Floor**
5 **7:00 p.m.**
6

7 **Present:** Mr. Harry LaCortiglia; Mr. Christopher Rich; Ms. Tillie Evangelista; Mr. Tim
8 Howard, (Arrived at 7:45 PM); Mr. Bob Watts; Mr. Howard Snyder, Town Planner; Ms. Wendy
9 Beaumont, Administrative Assistant.

10
11 **Meeting Opens** at 7:10 PM.

12
13 **Approval of Minutes:**

14 **1. Minutes of March 27, 2013.**

15 Ms. Evangelista - **Motion** to accept the Public minutes of March 27th meeting.

16 Mr. Rich - **Second**; subject to any changes made by colleagues at this meeting.

17 **Motion Carries: 4-0; Unam.**
18

19 **Vouchers:**

20 **1. Town Planner: Reimbursement.**

21 **2. Town Planner: DHCD Conference: Planning, Production, Progress.**

22 Mr. Rich - **Motion** to accept the vouchers as presented.

23 Mr. Watts - **Second.**

24 **Motion Carries: 4-0; Unam.**
25

26 Mr. Rich - Does the Planning Board get reimbursed for their travel?
27

28 Mr. LaCortiglia - No, we are not town employees. Can we find that out Mr. Snyder?
29

30 Mr. Snyder - Yes, I will find out.
31

32 Mr. LaCortiglia - What is the Mass Housing partnership?
33

34 Mr. Snyder - On May 7th the DHCD is working with MHP on putting together a “Planning,
35 Production, Progress” Conference and I plan on attending.
36

37 **Public Hearing:**

38 **1. Site Plan Approval: Honey Dew Donuts, Map 10B, Lot 33A.**

39 {Reads the Public Hearing notice for the Site Plan Approval application.}
40

41 Mr. LaCortiglia - I am opening the hearing for Honey Dew Donuts. Will the applicants step
42 forward. This is to construct a Honey Dew Donut shop. Please tell us about your application
43

44 Mr. LaMarco - What would you like to know?

45
46 Mr. Steinpinski - Essentially what he is purposing to do is to utilize the existing building and
47 parking on the site and renovate it and put a donut shop there. There is a relatively a new septic
48 system but will need to add a grease trap. Will use existing conditions on the site including the
49 parking lot which is already lined and lit. Will need interior renovations only. The only
50 modification is the exterior grease trap which the Board of Health requires.

51
52 Mr. Rich - Have you have not been before the Board of Health yet.

53
54 Mr. Steinpinski - Not yet, we have had discussions with the BOH staff.

55
56 {Site shown on screen}

57
58 Mr. Rich - How many feet of frontage do you have?

59
60 Mr. Steinpinski - 112.4 feet.

61
62 Mr. Rich - Commercial businesses are required to have 160 feet. Are you asking for a waiver?

63
64 Mr. Steinpinski - I think this lot had already been subdivided with a plan that the board had
65 signed that created the lot. I am assuming it went to the Zoning Board as well.

66
67 Mr. LaCortiglia - Mr. Snyder do you have any information on that in respect to the ZBA?

68
69 Mr. Snyder - Just a copy of variances issued for permit.

70
71 Mr. Steinpinski - I made an error, there is actually 235 feet of frontage so it is all set I believe.
72 It is in Plan Book 276, Plan 14 and it was signed by the board on December 31, 1991.

73
74 {Discussion held in regards to the frontage footage}

75
76 Mr. Rich - What is the date of the variance?

77
78 Mr. Snyder - It was signed by the Zoning Board on June 3, 1997.

79
80 Mr. Steinpinski - There was also a subsequent form signed by the Planning Board April 11,
81 1997. This is in Plan Book 315, Plan 93.

82
83 Ms. Evangelista - This is a variance is for two buildings – one is for 105 East Main Street and the
84 other is 5 Elm Street.

85
86 Mr. Snyder - The Elm Street property is shown on the map as Delorenzo.

87
88 Mr. LaCortiglia - This would be Lot 34.

89
90 Mr. Snyder - The lot of 105 East Main has two buildings on it.
91
92 {Review of the site plan.}
93
94 Ms. Evangelista - Is the green wall there?
95
96 Mr. Snyder - I think it is this area {shows on the screen}. I can follow up with the ZBA.
97
98 Mr. Rich - What kind of a traffic flow are you expecting?
99
100 Mr. LaMarco - Hopefully a lot.
101
102 Mr. Rich - You have no idea of how much business you are expecting?
103
104 Mr. LaMarco - No. I don't think we are going to increase traffic flow on that road.
105
106 Mr. Snyder - You own several locations, do they have a similar seat capacity?
107
108 Mr. Steinpinski - It is proposed for 12 seats right now.
109
110 Mr. LaMarco - The other five locations are approximately of the same seating arrangement.
111
112 Mr. LaCortiglia - How many customers do you usually see a day?
113
114 Mr. LaMarco - It varies depending on the location of the store.
115
116 Mr. Rich - What are the hours of operation?
117
118 Mr. LaMarco - 5:00 in the morning till probably 8:00 PM.
119
120 Mr. LaCortiglia - I am not seeing the lot lines on the overhead but I am on the paper copy. I am
121 not seeing arrows in the legend
122
123 Mr. Steinpinski - I think that is just the traffic direction.
124
125 {Discussion of the lot lines, curb cut, etc...}
126
127 Mr. LaCortiglia - This is a Site Plan Approval and it does not cover the other lot.
128
129 Mr. Steinpinski - We are showing what is existing on the other lot. We surveyed beyond the
130 property line so that you can get a clear picture. He does not have to use that lot for his egress.
131

132 Mr. LaCortiglia - But you understand the position this Board would be in if we signed this plan.
133 We would be approving this lot as well.
134
135 Mr. Steinpinski - I can take the other lot off of our site plan.
136
137 Mr. LaCortiglia - Please do.
138
139 Mr. Rich - Is Bedrock the trust?
140
141 Mr. LaMarco - Yes.
142
143 Mr. Rich - I have seen that paperwork from the BOH and it was resolved and they created
144 Bedrock and they own the entire property.
145
146 Mr. LaCortiglia - If this is owned by Bedrock, please put that on the plan
147
148 Mr. Steinpinski - I am not sure, the latest ownership we have is Danvers Concrete Block. The
149 town still has it listed this way as well.
150
151 Mr. Rich - I'd like to see who the record owner is.
152
153 Mr. LaCortiglia - According to the application it is Lot 33B and this area is a separate lot. Lot 33
154 – we need a Site Plan Application for this one and if it is a separate lot then it has to get its own
155 egress and frontage. Can you show that?
156
157 Mr. Steinpinski - I will remove it from the drawing to make it clearer.
158
159 Mr. Snyder - Everything past the property line will need to be removed unless you get approval
160 from the property owner to utilize their site. You can take it off the plan but if it stays on then...
161
162 Mr. Steinpinski - I understand.
163
164 Mr. LaCortiglia - So on the reiteration of this plan you can remove all the elevations.
165
166 Ms. Evangelista - You stated that nothing is going to be done to the parking lot. For a Site
167 Approval that needs to be improved in my opinion. That's not acceptable for a Site Plan
168 Approval. The parking lot it is like a runway. Plus the landscaping - is Dana going to dress it
169 up with landscaping?
170
171 Mr. LaMarco - I have no idea what his plans are.
172
173 Mr. LaCortiglia - {Reads Chapter 165 – 83(L).} This would be a good addition to Georgetown in
174 my opinion.
175

176 Ms. Evangelista - Did you do any marketing analysis before you decided to come here?
177
178 Mr. LaMarco - No.
179
180 Mr. LaCortiglia - I think what this is calling for is some landscaping and I think this would be a
181 nice improvement.
182
183 {Mr. Howard arrives at 7:45 PM.}
184
185 Mr. LaMarco - He does want to improve the property so I don't think he will have a problem
186 with that.
187
188 Mr. LaCortiglia - If you are pulling a lot of traffic from the road – I know I usually pull in during
189 the highest volume of traffic during the day. I think what we need is more comprehensive traffic
190 flow solution.
191
192 Mr. Rich - I want to make sure that with this access and egress – with the other donut shop,
193 people tend to go in there blind sighted.
194
195 Mr. LaCortiglia - What was required at the other donut shop was one entrance and one exit -
196 sounds to me that the board is looking for a comprehensive solution.
197
198 Mr. LaMarco - Would you suggest an island at the driveway?
199
200 Mr. LaCortiglia - I suggest some kind of solution so that all are safe.
201
202 Ms. Evangelista - I would not put any exit and egress at the curve as there is school traffic as
203 well.
204
205 Mr. Steinpinski - The road way was re-built by the town - I think the entrance needs to be
206 modified on the site.
207
208 Mr. Snyder - I just wanted to mention. Other department review comments are included in the
209 packet. I would like the site plan to show the parking spaces the applicant is claiming and is
210 required for their business.
211
212 Mr. Rich - Those spaces are shared with the other business.
213
214 Mr. Steinpinski - Yes.
215
216 Mr. Rich - Is this the only vacant unit in the building?
217
218 Mr. LaMarco - I believe there is four total.
219

220 {Discussion of the units in the building and parking spaces available and if those other
221 businesses have dedicated parking as well}
222
223 Mr. Snyder - Would you be able to get from the owner copies of any shared parking agreements?
224
225 Mr. Steinpinski - Yes. I would assume that if there was another use that they would have to
226 come before the board as well.
227
228 Mr. LaCortiglia - I am wondering if the building supply and liquor store are premised on using
229 all the parking spaces or not. The goal should be to get a comprehensive solution. Clean this all
230 up and make it safe.
231
232 Mr. LaCortiglia - All you need are three parking spaces as there are only twelve chairs.
233
234 Ms. Evangelista - In your lease you will have dedicated parking spaces correct?
235
236 Mr. LaMarco - As far as I know it is a communal parking.
237
238 Mr. Steinpinski - We will get together with the owner and see what his plans are.
239
240 Mr. Steinpinski - I don't know the answer yet as we need to meet with the owner first.
241
242 Mr. LaCortiglia - We will continue this - are there any public comments?
243
244 Mr. David Allen (8 Elm Street) - Let me start by saying I love donuts. I have a number of
245 questions. Can we start with the inadequate number of trees in the buffer zone which were
246 planted 15 years ago?
247
248 Mr. LaCortiglia - We have already asked the Planner to look into that. You will have that
249 answer at the continuance of this hearing.
250
251 Mr. Steinpinski - I will work together with Mr. Snyder in regards to this.
252
253 Mr. David Allen - How about signage for this business?
254
255 Mr. Snyder - The applicant has not made any application for signage.
256
257 Mr. LaCortiglia - They may wish to add that on the plan and we will know that at the next
258 meeting.
259
260 Mr. David Allen - What are the hours of operation? Any restriction of diesel trucks idling?
261
262 Mr. LaCortiglia - Let the records show that the abutter has concerns about cars/trucks idling in
263 the parking lot.

264
265 Mr. Steinpinski - I think it is illegal to have an idling car unattended in Massachusetts.
266
267 Mr. Rich - A tractor trailer is not going to shut down. I have another question - do you cook
268 everything on site?
269
270 Mr. LaMarco - No, the donuts are not cooked on site. There are a total of five deliveries a week.
271
272 Mr. LaCortiglia - Signage for deliveries in the rear?
273
274 {Discussion held in regards to deliveries, truck types and directional signage for location of the
275 deliveries.}
276
277 Mr. LaCortiglia - Potential condition for deliveries only in the rear of building.
278
279 Mr. Rich - Concern is for the noise and the fumes.
280
281 {Discussion held in regards to the location and elevation of the new septic area.}
282
283 Mr. LaCortiglia - In regards to deliveries, how does one ensure that people shut their cars off?
284
285 Mr. Steinpinski - Put up signage for no idling vehicles left unattended.
286
287 Mr. David Allen - Handicap spaces, is there enough?
288
289 Mr. Rich - Yes it only needs one for that number of seats.
290
291 Mr. David Allen - There are school kids going to school in the area - is there anything that can be
292 done to have the kids be aware that they are crossing a curb cut?
293
294 Mr. LaCortiglia - I think that is something we would want to address when we see a more
295 comprehensive egress and traffic flow solution. At this point we don't know if we are going to
296 get that.
297
298 Mr. Steinpinski - I can answer that question right now. The way the town approved the design
299 they have the sidewalk continuous - there is nothing to be done there - I think you make the
300 assumption that they are aware of the driveway. Cement ends at the curb cut - the town
301 approved the design with the concrete apron.
302
303 Mr. Snyder - Maybe a stop bar for vehicles exiting the site?
304
305 Mr. LaCortiglia - We will be looking at this with a minimum of five feet of landscape barrier.
306
307 Mr. Steinpinski - Yes, there will be a defined curb cut and pavement markings.

308
309 Mr. Rich - I am concerned about site line.
310
311 Mr. LaCortiglia - Bear in mind that you won't be able to come to the actual curb.
312
313 Mr. Steinpinski - That's correct the planting will be designed in regards to the site view.
314
315 Ms. Mary Keene (12 Elm Street) - We lived in our house when there was a restaurant in that
316 area. I am still concerned about idling trucks. Can there be two people in the truck and one stay
317 in the truck so it can idle?
318
319 Mr. LaCortiglia - It sounds like that yes they can.
320
321 Ms. Keene - The noise and exhaust from the trucks is really deterrent. Also with the original
322 restaurant, the exhaust system poured out into the neighborhood and it smelled like hot grease.
323 Maybe because the donuts are not baked on site it will not be a concern.
324
325 Mr. LaMarco - We have no grease on the premises. The only things baked on site are cookies,
326 muffins and bagels in an electric oven.
327
328 Mr. Rich - A grease trap is required for the BOH.
329
330 Ms. Keene - I believe in 1997 there was a restriction of activity in the residential area in regards
331 to time of opening.
332
333 Mr. LaCortiglia - What we know of the history of the lot is that there were four variances granted
334 and we did not see that condition but there may have been a variance granted at some other
335 point.
336
337 Mr. LaCortiglia - We are going to query the decisions made in the past by the Zoning Board of
338 Appeals. Mr. Snyder can you have a look into this?
339
340 Ms. Evangelista - This was called a Special Permit / Variance and it was already completed and
341 used. It was about wanting to put a driveway at 5 Elm Street.
342
343 Ms. Keene - Another restriction that we understood is that they could not have hours of operation
344 on Sunday.
345
346 Mr. LaCortiglia - What you might be referring to is the permit for Danvers Block.
347
348 Mr. LaCortiglia - There may be another decision out there that Mr. Snyder will check out for us.
349
350 Mr. Snyder - If it has to do with Danvers Block, it may just apply just for that use and not for the
351 entire site.

352
353 Ms. Evangelista - What the Zoning Board would do is to have them clean it up - anything we
354 saw that needed a permit, we would address it at that time.
355
356 Mr. LaCortiglia - You (Audience) will have to follow along as this will be continued to another
357 date and time.
358
359 Ms. Lucille Maming (84 East Main Street) - My question is that when you have the entrance for
360 traffic in and out, when you make the signage, what will it look like?
361
362 Mr. LaCortiglia - We will certainly be looking very closely at that.
363
364 Ms. Lucille Maming - The reason I ask is that at the other donut store people are going in the
365 "out" and out the "in".
366
367 Mr. LaCortiglia - There are some people doing that I understand. Is there signage there?
368
369 Ms. Lucille Maming - Yes, but it is not big enough.
370
371 Ms. Evangelista - I wonder if the Police Chief knows about many accidents have occurred at this
372 site because it is so open. We need to try and prevent it – need a traffic consultant to make it as
373 safe as we can.
374
375 Mr. LaCortiglia - Perhaps we can see what Mr. Steinpinski comes up with as he is a skilled
376 engineer. Mr. Steinpinski can you draw it like you live across the street? Are there any other
377 questions?
378
379 Mr. Snyder - Is the Board going to request this for peer review or proceed without?
380
381 Mr. LaCortiglia - No reason to do that at this time, perhaps at a later date.
382
383 Mr. Rich - Are there any drainage issues in that lot?
384
385 Mr. Steinpinski - I looked at the topography and the catch basins on site are full and need to be
386 cleaned.
387
388 Mr. LaCortiglia - May I suggest when you show the landscaping buffer that you incorporate LID
389 techniques and try to make that work for drainage issues?
390
391 Mr. Steinpinski - We may be able to have plant selections that help and no curbing – should be
392 able to do that.
393
394 Mr. LaCortiglia - How long will you need to communicate to the owners to come up with a
395 solution and revise the plans accordingly? Does May 8th work for you?

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Mr. Steinpinski - Yes.

Mr. Rich - **Motion** to continue the hearing to the May 8, 2013 meeting at 7:00 PM.

Mr. Watts - **Second.**

Motion Carries: 5-0; Unam.

2. Special Permit: Park and Recreation, East Main Street – Extension of Time.

Mr. Snyder - In your supplemental packet is a copy of Mr. Mammolette’s responses to the Technical Engineers report.

Mr. LaCortiglia - When did we extend the time for this?

Mr. Snyder - To tonight. For the record, the applicant has requested a time extension to June 30, 2013 – Form H.

Mr. Rich - **Motion** to extend the time for decision to June 30, 2013.

Mr. Howard - **Second.**

Motion Carries: 5-0; Unam.

Mr. LaCortiglia - What I am seeing here is a response to the response from Mr. Graham?

Mr. Mammolette - Yes.

Mr. Rich - Do we have a copy of these?

Mr. Mammolette - I would like to review the responses so that I am on track. And would like to know the Board’s response’s so that would give the time needed for follow through.

Mr. LaCortiglia - Do we want to go through each bullet point?

Mr. Mammolette - I want to leave here knowing the response to the comments and want to go in the right direction. One suggestion is that the paper plans are hard to read - the ones on the screen are the best. The first thing is about signing and stamping with a PE stamp – I have a concern that there is not a lot of design criteria – believe it is logical and practical. The reviewer sees this as a concept plan so no stamp was on it.

Mr. LaCortiglia - I think Mr. Graham means at the end of this process to stamp the plans.

{Mr. Mammolette (Project Engineer) shares his responses in regards to Mr. Graham’s (Town Engineer) review report. Each bullet point of the response is reviewed. The Planning Board decides a full watershed stormwater calculation would not be required but a stormwater calculation for the skate park would be. The project engineer noted the DEP threshold for stormwater calculations is an area common to a four lot subdivision or larger.}

440
441 Mr. Rich - **Motion** to continue the hearing to June 12, 2013.
442 Mr. Watts - **Second.**
443 **Motion Carries: 5-0; Unam.**

444
445 **Member or Public Reports:**

446 1. Any other concern of a Planning Board Member and/or member of the Public.
447 {None.}

448
449 **Planning Office:**

450 **1. DHCD Conference: Planning, Production, Progress.**

451 Mr. Snyder - This was discussed earlier.

452
453 **2. Lisa Lane: Preliminary Subdivision Plan Submittal.**

454 Mr. Snyder - Applicant material provided in your packet shows the intent and hearing on 4-
455 24-13

456
457 Mr. LaCortiglia - When you do an OSRD Special Permit one of the things an applicant can
458 do is submit a standard Preliminary Subdivision Plan and we are required to hold the two
459 public hearings at the same time. Mr. Snyder is it complete?

460
461 Mr. Snyder - Yes. The complete application is in the Planning Office.

462
463 Mr. LaCortiglia - Bear in mind that that is the preliminary subdivision plan. The hearing for
464 the OSRD will open on April 24th, 2013

465
466 **3. Responses to various inquire of Planning Board members at last meeting.**

467 Mr. Snyder - These are provided in your supplemental packet.

468
469 Mr. Rich - Have we communicated to Town Counsel all of the requests?

470
471 Mr. Snyder - Yes.

472
473 Mr. Rich - Want to bet? I doubt it.

474
475 Mr. Snyder - Well, it was done and is in your supplemental packet.

476
477 {Discussion about the points in the supplemental packet and their location in the packet.}

478
479 Mr. Rich - The word "vote" need not – that is not what was stated at the meeting. I appreciate
480 Mr. Farrell's comment "I see no reason to engage legal counsel", unfortunately for him and
481 fortunately for us, he doesn't have a vote on this board. So I hope that if this Board asks you
482 to do something (Mr. Snyder) that it doesn't get stopped at Mr. Farrell.

483

484 Mr. LaCortiglia - With all due respect Mr. Rich, Mr. Snyder was asked to send an email and
485 he sent it to Town Counsel and the Town Administrator as well. There is a long standing
486 policy since 2007 or 2008 and that when you contact Town Counsel, that you cc the Town
487 Administrator as well.

488
489 Mr. Rich - I just said that I have no problem copying the Administrator but that should not
490 stop a request from this Board. I just want to make sure that we understand that. I don't
491 think that is what it says. We are an elected Board - the Board of Selectmen does not run us,
492 does not control us and we don't work for them.

493
494 Mr. Snyder - It is in the bylaws that a Board or Commission cannot contact Town Counsel
495 without approval of the Selectmen.

496
497 Mr. LaCortiglia - I think there is a bylaw that limits the access to legal counsel to being
498 through the Board of Selectmen.

499
500 Ms. Evangelista - I know that Selectmen are responsible for it. I never saw that you had to
501 notify them. They pay the legal bills.

502
503 Mr. Rich - If that is the case, I would like see Mr. Farrell's written requests to Town Counsel
504 for the last two years.

505
506 Mr. Howard - You can ask for that.

507
508 Mr. Rich - You can ask for whatever you want but I bet you...

509
510 Mr. LaCortiglia - What are you looking for?

511
512 Mr. Rich - If the Board of Selectmen has to approve every request of any Board elected or
513 not in this town to ask Town Counsel a question. If that is the case then every time Mr.
514 Farrell as Town Administrator, went off ... I've had conversations with the Chairmen saying
515 who asked Mr. Farrell to ask Town Counsel this question and the answer was "I don't
516 know". What I'm saying is that we don't need anyone's permission to ask them a question -
517 maybe we should agree to disagree.

518
519 Mr. LaCortiglia - Maybe we could review the bylaw that Mr. Snyder just mentioned. Mr.
520 Snyder please be kind enough and get us the written citation of that and send it out?

521
522 Mr. Snyder - Yes, I will do that.

523
524 Mr. Rich - I would like to continue this discussion. Where are the responses to my questions
525 Mr. Snyder?

526
527 Mr. Watts - Reads the question regarding limited Site Plan Approval.

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Mr. LaCortiglia - The question is: “John, a majority of the Planning Board asks for a response: Should the School Building Committee and or their representatives decide to can they apply for a limited Site Plan Approval?” Is that the question you wanted Mr. Rich?

Mr. Rich - My question was a lot longer than that.

{Time spent looking for the question.}

Ms. Evangelista - I wonder if we can send him the citizen’s thing that we got at the class and ask him to read it - maybe he is not aware of what we are getting at the classes we are going to.

Mr. LaCortiglia - Let’s resolve one question at a time please. Mr. Rich this question was taken verbatim and sent to Town Counsel.

Mr. Rich - I thought we incorporated in the motion the statements about the bullet points that I raised about safety, etc... His answer and it’s a good thing we’re on TV because this answer is not worth the paper it is written because it is not an answer to the question. So maybe we should ask Mr. Eichman, enough with the fluff – answer the bloody question. All he is doing is restating what he said before. It does not answer any of the questions. Why don’t we invite him to show up here? This is crazy.

Mr. LaCortiglia - Mr. Rich, I don’t see how Mr. Snyder could have made it any plainer – it cannot be any more frank or clearer than this.

Mr. Rich - I’m not saying it is Mr. Snyder’s fault. It says “it doesn’t provide for it.” That doesn’t mean that someone can come in and apply for it. There’s an exemption for Site Plan Approval for things and the people who were exempted from it can come in.

Mr. LaCortiglia - We can debate this forever – would you like to make a Motion?

Mr. Rich - **Motion** to ask Attorney Eichman to answer the question posed by the Town Planner on April 8, 2013 at 4:18 PM. With the subject of Penn Brook School Limited Site Plan Approval.

Mr. Rich - This is nuts – just look at his answer.

Mr. Howard - **Second.**

Ms. Evangelista - It states that the Planning Board may grant waivers from the Site Plan Approval pursuing to the criteria therefore limiting the extent of Site Plan review. So on the application the applicant would put “not applicable’ and request a waiver.

572 Mr. Rich - Oh gee. I told the people on the School Building Committee that I would ask the
573 question.

574
575 Mr. LaCortiglia - And you certainly did and now we are going to have to ask it again right?
576

577 Mr. Watts - The question was: "Can the School Building Committee apply for a limited Site
578 Plan Approval?" Essentially what he said is "No" and then he went on to say that Zoning
579 bylaws don't provide for a Limited Site Plan Review. He went on to say that if the School
580 Building Committee wants to come to the Planning Board for consultation and their opinion
581 – that's up to them. But the Planning Board cannot mandate that they obtain Site Plan
582 Approval.

583
584 Mr. Rich - Ok then tell me what this means. "If Site Plan Approval is required the project
585 proponent must submit an application and the Planning Board must act on the application in
586 accordance with §165-83. The Planning Board may grant waivers from Site Plan Approval
587 requirements pursuant to the criteria set forth in §165-83, thereby limiting the extent of Site
588 Plan Review. Would that tell you that there is a Limited Site Plan Approval?
589

590 Mr. LaCortiglia - No, that would tell me that there is Site Plan Approval which this board can
591 choose to limit the extent of.

592
593 Mr. Watts - Right – That you go in with a Site Plan Approval and then we can say that we are
594 going to limit.

595
596 Mr. LaCortiglia - And basically they have to trust us not be crazy people – like carry on and
597 on and on.

598
599 Mr. Watts - Right and drag this thing out. I think it makes good sense for us to have been
600 asked to do a Site Plan Approval but in this guy's opinion – we can't mandate it.

601
602 Mr. Rich - No one's trying to mandate it! Those people asked me to find out if they can
603 come in for a Limited Site Plan!

604
605 Ms. Evangelista - I would like to send Mr. Eichman the pamphlet we got and underline that
606 paragraph that says that they can have a Site Approval.

607
608 Mr. LaCortiglia - I don't have a problem with sending that. Does anybody have a problem
609 with that?

610
611 **Motion** by Mr. Rich to ask Attorney Eichman to answer the question posed by the Town
612 Planner on April 8, 2013 at 4:18 PM. Subject: Penn Brook School Limited Site Plan
613 Approval.

614 Mr. Howard - **Second.**

615 **Motion Fails: 1-4.**

616
617 Mr. Watt - It is an interesting question but don't know if it is actionable as legal opinions
618 differ.
619
620 Mr. LaCortiglia - Yes and the town has to pay for him to read a pamphlet.
621
622 Mr. Rich - Is his opinion in here about the question we asked about our agenda? I did not see
623 that.
624
625 Mr. LaCortiglia - We should discuss these at the next meeting as we haven't had a chance to
626 see them.
627
628 Mr. Rich - Then maybe we should stop with Supplemental Packets at the meetings?
629
630 Mr. LaCortiglia - Supplemental Packets are absolutely crucial.
631
632 Mr. Rich - All the other meetings we go through the Supplemental Packet and at this meeting
633 because someone doesn't want to talk about it or it might be getting late on his watch so we
634 don't want to talk about it?
635
636 Mr. LaCortiglia - We can have it put on as an agenda item for the next meeting. That was
637 my initial suggestion. It seems that we are insisting on discussing this tonight.
638
639 Mr. Rich - You know what Mr. LaCortiglia? I don't have to tell you what the duties and
640 responsibilities of a Chairman are. You're the referee.
641
642 Mr. LaCortiglia - If you want to hear it, we will talk about it and right now we're talking
643 about it so let's discuss it, there's a motion on the floor.
644
645 Mr. Howard - How many pages is that pamphlet?
646
647 Ms. Evangelista - It's thick but the section I am referring to is about two paragraphs. I can
648 copy that section word for word to send to him.
649
650 Mr. Snyder - Just drop it off and I can make some copies of the section.
651
652 Mr. Watts - This might provide him another way of thinking about it.
653
654 Ms. Evangelista - There was an attorney at another hearing going on and he said it comes
655 from 40A section 3 under agriculture and if they come to a Site Approval which they are
656 planning on doing we cannot deny it based on that exemption. The attorney of the applicant
657 said that.
658

659 Mr. LaCortiglia - May I ask if Attorney Eichman goes a 180 degrees in his opinion, what will
660 happen from there, what would we do from there? How would the situation appreciatively
661 change? And from that what will you expect to happen?
662

663 Ms. Evangelista - It would be for our own benefit – for the future. Whatever comes in I
664 would think, if it were anything different that the Building Inspector would have a copy of it.
665 Because ultimately it starts and ends with the Building Inspector when a permit is granted.
666

667 Mr. Howard - Well you can talk to the Building Inspector for free.
668

669 Ms. Evangelista - You don't know where it will lead – it's just knowledge.
670

671 Mr. Howard - But should we be paying to educate the attorney?
672

673 Ms. Evangelista - It's educating us.
674

675 Mr. Watts - That's a valued question. Does this board get that amount of value out of
676 engaging him to do this? I have no idea.
677

678 Mr. LaCortiglia - I have no idea either I am not an attorney but if I cast an opinion as an
679 attorney I wouldn't go against my own opinion, I'd find a way to support it regardless of
680 what the other opinion is that's what attorneys are trained to do.
681

682 Ms. Evangelista - When he answered the email which can be tough as the sentences are very
683 short – it seems that he is very firm on this but perhaps he never saw another opinion. Maybe
684 he will communicate with this attorney and perhaps he will reconsider his original opinion.
685 In any event we know that there are other opinions out there by going to this class.
686

687 Mr. LaCortiglia - And other belly buttons – everybody's got one.
688

689 Mr. Rich - That's not fair Mr. LaCortiglia - they are educated opinions that differ with
690 supporting cases that differ from our Town Counsel.
691

692 Mr. LaCortiglia - We have already established the fact that there is Town Counsel's opinion
693 and there is an alternative opinion.
694

695 Mr. Rich - Well to minimize it and say that it's like everybody's got belly buttons...
696

697 Mr. Watts - Maybe it was a flippant way to put it.
698

699 Mr. LaCortiglia - We know the opinions are out there – my point is that when Attorney
700 Eichman is presented with that alternative opinion what will the net effect be to change the
701 situation? I would say that it will not change the situation.
702

703 Ms. Evangelista - Perhaps it won't but one experience I had when an attorney showed up at a
704 meeting and came into the audience and he participated. I asked if this is your paper and he
705 said yes it is and it was exactly the opposite of what he was telling us. So they do change
706 their minds.

707

708 Mr. Watts - How much do you think it will cost do you think?

709

710 Mr. Rich - We're going to worry about one question?

711

712 Mr. Howard - Could be \$500.

713

714 Mr. LaCortiglia - How many hours do you want him to spend on it? I'd read every word
715 three or four times. I'd spend a good long time on it because I'd want to give a good answer.

716

717 Mr. Rich - Call the question please.

718

719 Ms. Evangelista - **Motion** to send Attorney Eichman the appropriate section of the
720 handout we received at the Holy Cross conference and to have him confirm his previous
721 opinion in regards to Site Plan Approval after reading the handout.

722

723 Mr. Howard - **Second.**

724

725 Mr. Rich - My last question – the question we asked Town Counsel about agendas and votes
726 on the agenda. Was that answered by Attorney Eichman?

727

728 Mr. LaCortiglia - No.

729

730 Mr. Rich - Was it sent to Mr. Eichman?

731

732 Mr. LaCortiglia - Yes.

733

734 Mr. Rich - Do we have a reason why it was not answered?

735

736 Mr. Snyder - The response came back from the Town Administrator.

737

738 Mr. Rich - So the Town Administrator stopped the email or stopped the answer?

739

740 Ms. Evangelista - He basically said he didn't think it was necessary.

741

742 Mr. LaCortiglia - I think you're referring to a past opinion.

743

744 Mr. Rich - That would be censorship as far as I'm concerned. Didn't we ask a specific
745 question about the word "vote" on the agenda?

746

747 Mr. Snyder - {reads the motion as it currently is written}
748
749 Mr. Watts - What Mr. Farrell said is that the vote was held on a topic that was not on the
750 agenda. I think that is where he is splitting the hair. The topic had to be on the agenda.
751
752 Mr. Rich - I would like to ask Mr. Farrell if he stopped out question from going to Town
753 Counsel.
754
755 Mr. Howard - I think he did.
756
757 Mr. LaCortiglia - I'm not going to assume that.
758
759 Mr. Rich - I'd like to know if the question we posed because Mr. Snyder sent the email to
760 Attorney Eichman in an email.
761
762 Mr. LaCortiglia - Wait a minute. Read it through because it says "Although the word vote is
763 not required to be on the agenda, a topic for discussion is required. This question has been
764 asked and answered. I see no reason to engage Legal Counsel."
765
766 Mr. Rich - It is Mr. Farrell's opinion that it has been asked and answered.
767
768 Ms. Evangelista - I think we should ask Mr. Farrell if he got a response from Town Counsel.
769
770 Mr. Rich - A written response.
771
772 Ms. Evangelista - Yes and we would like a copy.
773
774 Mr. Rich - Mr. Farrell said that his legal opinion was verbal. I would like it in writing and
775 while we're asking him that...
776
777 Mr. LaCortiglia - Wait a minute Mr. Rich – don't just say ask him – make a Motion.
778
779 Mr. Rich - No, Mr. LaCortiglia let me finish talking. Don't tell me what to say and what not
780 to say! I will say what I want! If you use your sarcasm then I'll use my sarcasm.
781
782 Mr. LaCortiglia - Make a motion please so that we get it straight and it's in the record.
783
784 Mr. Rich - I would like consensus from the Board to ask the Town Administrator if the Town
785 Planners email of April 1, 2013 that he answered, if it was intercepted... better yet I will
786 make the motion.
787
788 Mr. Rich - **Motion** to have Town Planner inquire of the Town Administrator if the
789 Administrator instructed Town Counsel not to answer the question posed in the April 1,
790 2013; 2:09 PM email to Mr. Jon Eichman and further, Mr. Farrell states in his response to

791 that email that the question has been asked and answered and we would like to see a copy
792 of that response.

793 Ms. Evangelista - **Second.**

794 **Motion Carries: 3-2.**

795

796 Mr. LaCortiglia - Mr. Snyder, please put the response under correspondence for the next
797 meeting.

798

799 Mr. Snyder - I will.

800

801 Ms. Evangelista - **Motion** to adjourn.

802 Mr. Rich - **Second.**

803 **Motion Carries: 5-0; Unam.**

804

805 **Meeting adjourned at 10:36 PM**