

**Village of Cazenovia Planning Board  
Meeting Minutes  
July 13, 2015**

5 Present: Richard Huftalen, Chair; Adam Walburger; Jennifer Gavilondo; Anne McDowell; and Stephen McEntee.

10 Others Present: James Stokes, Village Attorney; Dennis Gregg; Dennis Marconi, Anne Ferguson; Richard Hubbard; Patti Hubbard; Robert Kent; Tim Updyke; Priscilla Arthur; Warner Arthur; Marc Kennedy; Frank (?); Brian Ross; Suzanne Munger; Jerry Munger; Elizabeth Digiacomo; and Barbara Ianuzi.

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15 R. Huftalen called the meeting to order at 7:00 p.m. and introduced the Board.

R. Huftalen made a motion to change the meeting starting time to 7:00 p.m. S. McEntee seconded. The motion carried with 5 in favor, 0 opposed.

20 R. Huftalen asked if anyone had any corrections to the June 8, 2015, minutes. R. Huftalen mentioned conditions for the approval of the two Chenango Crossing lots. One condition was to ensure that bonding was in place to complete the original subdivision. The other condition was to make sure the materials were the same as presented to the Board. Mr. Bargabos had asked if those conditions were for building permit issuance or certificate of occupancy issuance. Mr. Stokes answered that issuance of a building permit was conditioned upon satisfactory arrangements for installation of the sidewalks. There was another issue discovered, which was: Under the conditions of approval of this subdivision, all of the lots are supposed to have individual site plan approvals.

30 Mr. Stokes continued that the June 8, 2015, minutes should be amended to read: Issuance of a building permit is contingent on satisfactory arrangements for installation of sidewalks.

R. Huftalen made the motion to approve the June 8, 2015, minutes with the above amendment. J. Gavilondo seconded. The motion carried with 5 in favor, 0 opposed.

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**Gregg Development, Public Hearing, Final Plat for Phase 1B of South Meadow, Lots 5, 6, 7, 8, and 19**

40 Mr. Gregg came forward and explained that the map filed to date is for lots 1, 2, 3, 4, 21, and 20 in Phase 1A. He is adding lots 5, 6, 7, 8 and 19 across the road in Phase 1B. The detention basin has already been completed to the south. Mr. Dunkle, the Village Engineer, inspected it and submitted some comments as far as what he wanted for bonding or letter of credit.

45 R. Huftalen received some comments by email from Mr. Dunkle regarding Mr. Gregg’s proposal for development of Phase 1B. He read a portion of the email received from Mr. Dunkle into the record:

*For developing the proposed Phase 1B (lots 5, 6, 7, 8 and 19) of South Meadow, the following infrastructure will be needed:*

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- *Approx. 180 ft. of pavement on South Meadow Drive*
- *Approx. 140 ft. of pavement on Road A*
- *Approx. 225 ft. of water line on Road A (partially installed, and not certified)*
- *Approx. 210 ft. of water line on South Meadow Drive (to be installed and tested as part of Phase 1A security)*
- *Approx. 270 ft. of sewer from MH 3 to MH 5 (installed and certified as part of IA)*
- *Approx. 295 ft. of sewer from MH 3 to MH 9 (installed and certified as part of IA)*
- *No new stormwater infrastructure is needed for Phase 1B.*

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*Therefore, the following additional securities are recommended for Phase 1B:*

- *320 ft. x 25.33 ft. x 3" of asphalt binder course @ \$14/square yard = \$13,000*
- *320 ft. x 25.33 ft. x 1.5" of asphalt top course @ \$10/square yard = \$9,000*
- *225 ft. of water line @ \$40/ft. = \$9,000*

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*Total = \$31,000*

*As per the previous phase, appropriate securities for trees and sidewalks will be required for each building permit request for the lots in Phase 1B.*

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R. Huftalen asked Mr. Gregg if he is agreeable to that number. Mr. Gregg said it is about what he anticipated and it makes sense.

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R. Huftalen mentioned that Board members might remember an extensive discussion about the landscape buffer on November 11, 2014, for approval of Phase 1A.

Mr. Gregg pointed out that the berm has been installed and the landscape buffer has been started. One tree is up and he is waiting on five others and there is still money being held for that.

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J. Gavilondo asked if the berm borders Phase 1C. Mr. Gregg answered yes. A. Walburger inquired if the berm has been construction seeded. Mr. Gregg replied yes. Mr. Gregg commented that with the recent heavy rains, the stormwater system has been tested very thoroughly and Mr. Dunkle is satisfied with it.

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R. Huftalen asked for any further questions or comments from Mr. Gregg, Board members, or Mr. Stokes. There were none. R. Huftalen proceeded to open discussion to the public for further questions or comments. There were none.

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Mr. Stokes suggested that this Phase 1B be approved on the same conditions as Phase 1A.

RESOLUTION  
OF THE PLANNING BOARD  
OF THE VILLAGE OF CAZENOVIA

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RESOLUTION GRANTING FINAL PLAT APPROVAL  
FOR THE SOUTH MEADOW PHASE 1B SUBDIVISION

100       **WHEREAS**, Gregg Development Corporation (“Applicant”) submitted an application for  
 preliminary plat approval for “Phase 1” of the “South Meadow” subdivision consisting of twenty-  
 one (21) single family residential lots located on a portion of the Applicant’s parcel consisting of  
 approximately 48 acres of presently undeveloped land located on the easterly side of Number Nine  
 Road, being identified as tax map parcel no. 95.3-1-19 (“Site”), with the lot layout as depicted in the  
 plan entitled South Meadow Phase 1, Preliminary Layout Plan dated May 23, 2012 (the “Preliminary  
 105       Plat”), and

**WHEREAS**, by resolution dated October 1, 2012, the Board of Trustees of the Village of  
 Cazenovia, acting as lead agency pursuant to a coordinated review under the New York State  
 Environmental Conservation Law, made a determination that the rezoning of the Site from R-30 to  
 R-6 District and development of the site for single family housing in accordance with the  
 110       Preliminary Plat would not have any significant adverse environmental impacts, and

**WHEREAS**, by resolution dated October 12, 2012, this Planning Board granted approval of  
 the Preliminary Plat, subject to conditions, and

**WHEREAS**, by resolution dated November 10, 2014, this Planning Board granted final plat  
 approval for Section 1A of the Subdivision, consisting of lots 1,2,3,4, 20 and 21, subject to  
 115       conditions, and

**WHEREAS**, the Applicant has submitted a proposed final plat for Section 1B of the  
 Subdivision consisting of lots 5,6,7,8 and 19 (hereinafter “Final Plat”), and

**WHEREAS**, the Planning Board held a public hearing on the Final Plat on July 13, 2015;  
 and

120       **WHEREAS**, the construction of the storm water detention facilities for the Subdivision and  
 Condition “1” of the preliminary plat approval have been substantially completed as of this date; and

**WHEREAS**, it is hereby determined to be in the best interest of the Village that the said  
 application for Final Plat approval be granted.

125       **NOW, THEREFORE, BE IT HEREBY RESOLVED**, that the Planning Board of the  
 Village of Cazenovia hereby grants final plat plan approval of the South Meadow Subdivision,  
 Section 1B, consisting of lots 5,6,7,8 and 19, and it is further

**RESOLVED**, that the aforesaid approval of the Final Plat is subject to the condition that the  
 Planning Board Chair may sign the Final Plat only upon the satisfaction of the following conditions  
 as determined by the attorney for the Planning Board:

- 130       1.     A Construction Guarantee Agreement, as approved by the attorney for the Village  
           and the Village Board of Trustees, shall be executed and delivered to the Village by  
           the Applicant.
- 135       2.     A letter of credit in favor of the Village of Cazenovia in the amount of thirty-one  
           thousand (\$31,000.00) dollars, as approved by the attorney for the Village, shall be  
           delivered to the Village by the applicant to secure the performance of the Applicant’s  
           obligations under the Construction Guarantee Agreement.
3.     That the applicant be current in all payments due to the Village for legal and  
           engineering and other fees due to the Village of Cazenovia in connection with this  
           Subdivision.
- 140       4.     That all conditions of the preliminary plat approval not heretofore satisfied or  
           addressed in this resolution shall be satisfied prior to final plat approval for the final  
           build-out of Section 1 (entire 21 lots).
5.     That the applicant submit the final plat map to the attorney for the Village for  
           approval prior to it being signed by the Chair.

**AND IT IS HEREBY FURTHER RESOLVED**, that the Chair and Clerk of the Planning Board and the Zoning Enforcement Officer are hereby authorized and directed upon payment of any required and/or outstanding review and professional fees to issue such permits and certificates and to take such other action as may be required to effectuate and enforce this Resolution.

150 Dated: July 13, 2015

R. Huftalen commented that this is substantially the same as the resolution for Phase 1A.

Mr. Stokes pointed out that a signable map is required.

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A. McDowell made a motion to approve the resolution as dictated by Mr. Stokes and that is substantially similar to South Meadow Phase 1A. R. Huftalen seconded. The motion carried with 5 in favor, 0 opposed.

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**Caz Sports Bowl, 3 Carriage Lane, Enclose Front Porch**

Dennis Marconi came forward to explain. The existing overhang is all open. He is planning to enclose the whole overhang. There would be a pro shop next door for drilling bowling balls, etc. He would like to have the pro shop accessed directly from the outside. There are two existing windows in front of the existing bar area. He would like to make a separate entrance to the dining area without going through the bar. There would be approximately 40 seats in the new area.

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A. McDowell questioned if there would be sufficient parking. Mr. Marconi stated that he is unsure of exactly how many parking spaces he has. Parking is currently shared with Tops Supermarket, the animal hospital, and Control Equipment.

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R. Huftalen inquired about the type of siding proposed. Mr. Marconi said that vinyl siding would be used and be the same materials and color scheme as Control Equipment and the Carriage Lane Apartments across the street, which is maroon and green vinyl cedar shakes. It will be insulated vinyl siding.

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R. Huftalen stated that the Board has previously asked for materials samples before a building permit is issued. A. Walburger suggested having a photo of the Carriage Lane Apartments to submit to the file instead since it will be the same colors and materials.

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R. Huftalen declared this a Type II action under State Environmental Quality Review (SEQR) 617.5(c)7, construction or expansion of a nonresidential structure involving less than 4,000 square feet gross floor area. As such, no further SEQR action is required.

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A. Walburger made the motion to grant architectural approval contingent on submittal of a photo of the adjacent apartment building showing siding materials and colors. J. Gavilondo seconded. The motion carried with 5 in favor, 0 opposed.

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**CNY Home Builders, South Meadow, Lot 1, Change of Dormer**

Marc Kennedy, owner of American Homes, and Frank \_?\_ of CNY Progressive Builders, came forward. Mr. Kennedy presented a picture of a model on his lot that had two dormers, which was

195 approved by the Planning Board. He feels that one dormer is more traditional to homes around this area, so the house was built with one dormer on lot 1. The plan was to put shakes in the one big dormer, but it looks good without them. If a buyer wants them in the future, he would come before the Board and ask for approval for shakes in the dormer.

200 R. Huftalen declared this a Type II action under State Environmental Quality Review (SEQR) 617.5(c)9.

R. Huftalen asked for any further questions or comments from anyone. There were none.

205 Mr. Kennedy inquired about the best way to get models/plans preapproved for future houses. He would like to get 4 or 5 models preapproved to be able to offer them for sale. He stated that it is important to have the exteriors look nice. Some of the ways he could save money for the buyer would be some of the amenities on the inside. They may not get granite or hardwood floors on the inside to keep the price down to a more affordable level. Buyers can decide their own price point.

210 A. McDowell asked about price range for these houses. Mr. Kennedy answered they would be around \$279,000.

215 A. McDowell voiced that she likes the placement of the garage and how it is set back from the front of the house and the side entry of the model house.

A. Walburger pointed out that the Board is not in a position to approve different models tonight. Mr. Kennedy said it would be helpful to him for the Board to tell him what is not preferred.

220 Mr. Gregg said he would want to do something similar as was done with South Village. The builders submitted 7 or 8 plans that were approved at the beginning so that people had a choice of models to choose from. There were certain restrictions like pitch of the roof, etc.

225 Mr. Kennedy said that some people do not want a colonial and some people even like capes where they can finish the upstairs themselves at a later time. J. Gavilondo remarked that variety is good.

230 R. Huftalen commented that a couple of things preferred from the Board's point of view is to have the garage set back, a porch to break up the front, and columns are nice too. J. Gavilondo added that dual doors on the garage versus one large door is preferable. Also, no blank walls (without windows) on the house or garage. A. Walburger added that carriage style garage doors are preferred by the Board.

J. Gavilondo made the motion to approve the dormer change as shown on Rich's iPad and as constructed. S. McEntee seconded. The motion carried with 5 in favor, 0 opposed.

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**Richard Hubbard, Gazebo at the Brewster Inn, Public Hearing.**

240 R. Huftalen gave some background. An application for an 11 x 11 gazebo was submitted months ago. Bill Carr, the Zoning Enforcement Officer (ZEO), interpreted the Code and sent it to the Historic Preservation Committee (HPC) and it was approved. The gazebo was constructed and placed on the site. Subsequently, it was determined that further review would be required. The Planning Board has asked the applicant to come in for a public hearing to get input from the public.

245 The architect, Robert Kent, came forward to represent Mr. Hubbard and the Brewster Inn. He explained that plumbing plans for water for the hand washing sink and food preparation sink is included. The application has been approved by the health department for plumbing connected to two sinks whether connected by direct line or a dump bucket for waste. They would accept it either way. The application includes installation of a freestanding gazebo structure for the purpose of serving prepared food from a remote kitchen. An amendment is attached to the application. The appendix outlines the wood frame octagonal structure as 11 feet x 11 feet across with a 32-inch overhang of the roof. The purpose is to offer customers another dining experience rather than dinner at a table. A photo of the structure is included in the packet. There is a Long Form Environmental Assessment attached to the application. There is an overlay combination of site plan and photo. The new gazebo is located on the former location of the original gazebo. Attached is a site plan and more detail of the entire lot with locations of both existing and former gazebo.

260 A. McDowell asked if the new gazebo is located in the same place as the old gazebo and if it is the same size. Mr. Kent answered that it is in the same location, but the new gazebo is bigger. The new gazebo is a purchased gazebo that was already constructed and moved to the site. It is not on a foundation. It is sitting on the ground. The only connection would be for plumbing and electrical.

265 J. Gavilondo inquired about number of seats at the gazebo. Mr. Hubbard answered there are 20 seats.

J. Gavilondo wondered if the plumbing would accommodate a raw bar. Mr. Hubbard replied that he is applying to serve food and a hand sink is needed, which was going to require plumbing to the main building. He found another unit that the health department finds acceptable, which needs no plumbing going to the main building.

270 J. Gavilondo asked what would happen to water from melting ice and other waste. Mr. Hubbard said the health department finds a 5-gallon pail under the sink acceptable. Mr. Kent added that the health department requires two sinks; one for hand washing, and a separate one for food preparation. The health department has approved a dump bucket for sink drainage. Mr. Hubbard said that he would use a pail for dripping ice, which he anticipates to be about one gallon every two hours.

280 R. Huftalen gave some context as to the reason for the public hearing. This is an area governed by new legislation—the Western Gateway zoning—which was recently adopted. Much of that legislation was drafted in contemplation of new projects. It does not give a lot of guidance for modifications of existing uses. The Planning Board has to have this public hearing to review site plans to better establish how this use is governed and what the Western Gateway legislation impact would be. The Planning Board referred the project to the Madison County Planning Department and they returned it for local determination with a brief comment that no adverse county-wide impact or municipal impact will result.

285 R. Huftalen solicited questions and comments from the Board members and Counsel. There were none and he proceeded to open the hearing to comments and questions from the public.

290 Warner Arthur, abutting neighbor to the Brewster Inn, spoke: Has there been any input for the noise factor and the long hours? We have observed an increase in noise from that facility. We have also noticed they have put a very large green tarp over the back deck. I understand that it makes good business sense. But how much should the neighbors put up with? How much more do we have to

295 put up with? It continues to rise. We have been there for 18 years. We did try to sell it. We can't  
sell it at this point. One side of me has a huge warehouse that has an antique dealer. The other side  
is the Brewster Inn. We have been good neighbors with the Brewster. But it continues to grow. It is  
my understanding that you go to the Planning Board first and make a request, not after the fact. I  
think somebody else approved it. Who approved it? I don't understand that process.

300 R. Huftalen explained that the application was submitted to the ZEO. He looked at the new  
legislation that governs the Western Gateway where it makes explicit reference that gazebos are  
allowed for residential use. The Brewster Inn is not a residence, so that was an oversight by the  
Village. It was subsequently sent to the HPC who granted architectural approval. When the  
oversight was discovered, Mr. Stokes looked at the application and made a determination that the  
applicant should submit the application with additional site plan information to the Planning Board.  
305 The Planning Board set a public hearing to solicit public comments. With regard to the awning, that  
application was also submitted and sent to the HPC who approved it.

310 Mr. Arthur: I understand that. But it is the after effect of what these approvals do to my property  
values. I believe they are going down. I think this Board should understand that. I can't sell the  
house. I have a booming business on one side and my windows were vibrating during a party  
recently. For the first time in my life, I called the police with a noise complaint. My windows were  
actually vibrating. If this gazebo can seat 20 people and there are a bunch of people sitting out there,  
what hour of the night can they giggle and laugh? It is pretty close to my line. I understand it is  
good business to serve alcohol and oysters. I like them myself. I have no problem with that. I am  
315 just wondering. This whole process seems to be cart before the horse. We are abutting neighbors  
and we weren't notified. In most municipalities, the abutting neighbor is notified and informed that  
something is going on beforehand—not by a yellow sign in front of the building after the thing has  
been approved. I don't understand that. It has all been approved and now you put up a sign that  
there is going to be a public hearing about it. I just don't get it. What is the zoning for the property  
320 now?

R. Huftalen: It is under the Western Gateway zoning, which is new legislation.

325 Mr. Arthur: We understand there is an issue that somebody is going after that. Is it going to go back  
to the old? Is it going to stay gateway? What is going on?

Mr. Stokes: The lawsuit is pending. There has been no determination, so the legislation stands as it  
was passed.

330 Mr. Arthur: Should we continue to develop properties without that knowledge?

335 Mr. Stokes: That is the applicant's risk. This is the current state of the law. The applicant has the  
right to submit the application. Once submitted, the Planning Board has the obligation to review it.  
As far as the noise, one of the provisions of the Western Gateway legislation is: All events  
occurring within the district must be conducted in compliance with the provisions of Chapter 115,  
which is the noise ordinance of the Village Code. That applies to all properties within the district,  
including this one. If you have a complaint, I suggest you continue to do what you did, which is to  
call the police. There is a decibel limit.

340 Anne Ferguson: I have a question. In terms of 20 seats, I am assuming that would be at least 10-20  
additional parking spaces. I am concerned because there seems to be inadequate parking right now.

How does he intend to address additional parking on that space? The second question is: What, if any, impact will there be on the impervious surface levels of the lot and in relation to the lake?

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R. Huftalen: The additional site plan does not have calculations or data with regard to that. The additional information we asked for was to get site plan information to better understand the uses and try to determine if we need additional information in order to render a decision.

350 Ms. Ferguson: Pending receipt of that information, this hearing would not be closed tonight, right?

Mr. Stokes: On that point, the applicant, Mr. Kent, indicated that these were not intended to be additional seats, but to provide alternative seating for customers in lieu of a traditional dining experience.

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Ms. Ferguson: I would expect that the site plan would show 20 seats going away.

360 Mr. Kent: We are not adding more than they can serve out of the kitchen. The kitchen is not expanding. It is at its maximum now. Regarding impervious surfaces, we did a Long Form State Environmental Quality Review (SEQR). There is no indication there would be additional runoff. The lot is 3.375 acres. The gazebo is 11 x 11 and covers 121 square feet on 3.375 acres.

365 Mr. Stokes: Can water flow under the gazebo? Mr. Kent: It sits on the ground and there is no drainage under it per se. Mr. Hubbard: It has a slatted wood floor and water can leach under it.

J. Gavilondo: I can see there is brick around it. Is there brick under it? Is it sitting on a pad?

Mr. Kent: It is sitting on the ground. J. Gavilondo: So inside the gazebo is grass? Mr. Kent: There are pavers where seating is. It has a slatted wood floor with grass underneath.

370 A. Walburger: The application for site plan approval lists lot coverage at 12,030 square feet. That must include the main building? Mr. Kent: It does. A. Walburger: We are talking about 121 square feet in addition to 12,030, which is imperceptible. Mr. Kent: Very little impact.

375 R. Huftalen: All of the questions on the Long Form SEQR that talk about impact to water bodies are answered in the negative.

J. Gavilondo: Let me ask about parking. Is the idea that you don't need additional parking because it is alternative seating as opposed to additional seating?

380 Mr. Hubbard: We had two trees next to our dumpster, which were also next to a green shed that held unsightly things like lawnmowers and stuff like that. We moved the shed to another location. Those two trees were cut down because they were rotted out. As a result, we picked up 9 more parking spaces. In the summer, it is most likely that the two interior dining rooms may not be used. If it is nice out, customers want to be outside. We only have two seatings; one at 6:00 and one at 8:00. We do 125 in the first two hours and then we turn the tables and do it again. That is maximum. If we do 250 10 times a year, that is an amazing thing. Our average is about 200. That is dinners served—it doesn't matter if it's a full dinner or a salad, they are counted the same. In June, the gazebo was open 4 days as a dining table. Last July, it rained 26 nights. It doesn't really get a lot of play. So what you are seeing are the people who were sitting indoors in the 20 seats now have the opportunity to sit outdoors. Not many people go to the bar and have dinner, but those people who do would

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rather be outdoors if it is a nice night. That building is not connected in any way to keep you dry to go to the restrooms, so we don't open the gazebo when it rains. This gives Cazenovians a chance to eat outside. Last Thursday it was 62 degrees outside. That terrace was full of people wearing winter coats. Why? Because we don't get to go outside in Cazenovia. The thing that gets me at some of these meetings is that The Brewster Inn, with one name or another, has been there since 1957. Every parking lot has come before this Board and been approved. And now we are all talking about front loaded parking lots. But no one seems to mind Willow Bank when they do the Commodore Ball with 250 people and have their band playing until midnight. I lived next to Willow Bank. They do it twice a year. They play until midnight. You know not to go to bed on those nights. People don't seem to have a problem with Willow Bank. Sparky Christakos came before the Board last year and said he didn't want me to have a tent because it would look terrible to every boat that goes by and to think of the water that will come off of the tent. Then, right after that, the tennis club had a tent up for two weeks.

R. Huftalen: What you are getting at, in that case in particular, is the difficulty with the legislation that was enacted. As you know, that was a very contentious process. It went through a number of iterations and public input. In fact, tents are prohibited for all uses established by issuance of a special permit after the effective date of the creation of the district. That same type of determination is the difficulty we have now, as a Board, to try to determine the nature of this proposal in front of us. We looked at it initially as an accessory structure. Does it constitute redevelopment? Is it expansion of a legal existing use? We are trying to gather as much information as we can. And then we will be guided by our legal counsel. I appreciate your perspective.

J. Gavilondo: All I did was ask about parking. What I got from you at the very beginning is that you have 9 additional spaces based on the fact that the trees were cut down. I understand there are other simmering issues.

Mr. Hubbard: I would like to apologize to Mr. Arthur. The other night, my nephew did get married and the band was really loud. At 9:00 he did call the police. The tennis club has their weddings next door and they go on until 10:30. After that wedding's noise, I decided I'm not going to have any more evening weddings because I didn't like the noise myself. I apologize.

R. Huftalen: Again, the noise ordinance governs everything that goes on in the Village. Unfortunately violations occur and we rely on our police department to take care of things when that happens.

Mr. Arthur: They are not always there. We get very little police coverage. It is difficult to get someone to come. Mr. Stokes: Did you call the office number or did you call 9-1-1? Mr. Arthur: I called the non-emergency number. It was not an emergency. Mr. Stokes: They were probably out on patrol. We have around-the-clock coverage here. If you call 9-1-1, they will dispatch them. That is my suggestion for the future. You have a legitimate law enforcement complaint and they will dispatch the officers.

Mr. Arthur: I didn't want to take an officer from an accident somewhere. I want to be a good neighbor. I think having the right meetings at the right time is important for the Village. Can I put in a gazebo? Can the tennis club put in a gazebo and more seating? It continues to roll.

R. Huftalen: They take the same risk that Mr. Hubbard did. The law might determine that he has to take it down. That is part of the challenge of this Board.

- 440 Mr. Hubbard: I applied for a building permit and I was given one.
- R. Huftalen: Mr. Arthur, on behalf of the Village, I will apologize for not administering the new Western Gateway law perfectly the first time. It was not administered the way it should have been. 445 Right now, we are trying to address that. My apologies. That is why we are having this meeting here tonight because we want to try to make the applicant conform to the legislation that was passed.
- R. Huftalen: Are there any further comments or questions?
- 450 Elizabeth Digiacomio: I have worked with Mr. Hubbard at the Brewster Inn for 5 years. Since this has been going on, I see the appeal to the people who are interested in that area. It is kind of an overflow area for people who may be waiting for a table or having a drink while they are waiting for their guests and watching the sunset. I don't see it as adding a parking problem at this point. People are more interested in sitting and enjoying the view and having a small bite to eat. It does not seem 455 to be impacting parking, which I would know very well. On the parking issue, I don't see it as being a huge deal.
- Suzanne Munger: I think Mr. Hubbard runs a very classy operation. It is a draw to the area. I have been there when weddings are breaking down and he is trying to open up for dining in the evening. 460 He is very strict. At 5:00 the tables are cleared. There may be wedding guests and bride and groom walking around socializing, but his employees are breaking down that wedding. You have a wedding until 5:00 and then you are out of there. I have not heard anybody complaining. They know what they are getting into. Aside from the legal issues of what is allowed under the law, when it comes to the qualitative issues of what Mr. Hubbard is trying to do, I think quite a bit of 465 consideration should be given to the kind of operation he runs and the kind of clientele he attracts. It is a good thing for Cazenovia.
- Barbara Ianuzi: I am an employee at the Brewster Inn and I handle a lot of the weddings, banquets, and parties there. I know a lot of people may worry that it will get louder, but it has never been that 470 kind of place. It has never been that 2:00 a.m. type of bar. I manage a night or two a week, and I'm not staying there past midnight. It has just never been that kind of bar. I don't think Mr. Hubbard wants it to be that kind of bar or restaurant, mainly based on the dining. It is not a loud party kind of place. We try to be very respectful so it is not that way.
- 475 R. Huftalen: Part of the purpose and intent of the Western Gateway district was to promote desirable economic development. It is our tough job to figure out what is desirable and what is not and how the specific provisions of the Western Gateway apply to this particular application. I would like to get some legal guidance on some of the specifics. I do think it is going to take some interpretation on the part of the Board.
- 480 Mr. Stokes: What I would like to do at an appropriate time, after the rest of the agenda is completed, is to have a confidential attorney/client privilege discussion with the Board to give you legal advice. We should specifically make the email from Mr. Christakos part of the record.
- 485 R. Huftalen: The Planning Board received an extensive email (below) from Mr. Christakos discussing various provisions of the Western Gateway law. We will be taking that into consideration.

*Dear Chairman Huftalen and Planning Board members.*

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*I am traveling this week and thus cannot make your 7-13-2015 meeting, however I wanted to write concerning the Western Gateway (WG) expansion of a non-conforming use, and ask that the Planning Board address known issues.*

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*Based on recent newspaper reports (attached), the Brewster Inn's new oyster bar etc. will add 2 employees and 14 -20 seats for customers; which will require 2 employee parking spaces and 7-10 more parking spaces for every two customers, totaling an additional 9-12 more parking spaces. It is indisputable that the Brewster Inn (BI) is an asset to Cazenovia. One of the finer restaurants in the area, the Brewster Inn (BI) provides so much to the community in its current location: it is a full service restaurant; a wedding venue for 200; it offers 16 guest rooms for overnight lodging, a retail fish market, a commercial marina for about 50 power boats, and kayak storage and waterfront launching for those kayakers: and most important, is nationally recognized for its service and quality.*

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505

*The Village Board recognizes this asset, and went to great lengths recently to change zoning known as the Western Gateway (WG) to accommodate the desired BI expansion plans of purchasing and converting the two residences next door to the west into commercial uses, among other reasons. Ironically, the very WG law that was developed to help the BI acquire the adjacent residential parcels, may in fact hinder the BI from expanding where it sits today.*

510

*The WG law does not allow parking in front of the building, and does not allow parking within 50 feet of any side lines, yet the BI violates both those requirements currently allowing parking in front and also adjacent to both sidelines (within a foot or two). Both sides of the BI building are maximized with parking, and there is no exclusive loading area as required by law. Where there would be a loading area cars are stacked and Village law does not permit "stacking" of cars two or three deep (as law requires all cars to be able to exit without the need to move another car). Expanding the business as advertised, with the required 9-12 new parking spaces worsens what is already a clear violation of the Gateway zoning.*

515

520

*Currently the Inn has parking available for about 107 cars as follows, all of which violate current WG law:*

*9 cars parallel parked along the east guard rail fence, on the east property line and within 50 feet of the line*

525

*15 cars parked opposite that on the east side of the main building, also within 50 feet of the property line*

*4 cars parked adjacent to the front of the building, between the building and the street*

530

*31 cars parked on the pavement in the circle, between the building and the street*

*4 cars parked adjacent to the carriage house, between the main building and the street*

535

*13 cars parked along the West fence, on the west property line and within 50 feet of the line*

*31 cars can be added on the lawn on the street side of the circle, between the building and the street, however not defined as parking to the passer by.*

540 *Total Available: 107 total spaces for current use.*

*Under current Village law, parking requirements for all of the BI uses combined, it would appear that the BI must offer the following parking spaces every day in order to be in compliance with the new WG and/or other village code:*

545 *100 spaces for a 200 person wedding (as is advertised on the Madison tourism website) per WG law*

*16 spaces for the 16 guest rooms per village law*

550 *25 spaces for the estimated number of employees per village law*

*2 spaces for current retail fish market*

555 *25 spaces for the boating and marina area (common sense would estimate one space for two power boats or kayak spaces rented)*

*Plus the requirement for a full and exclusive loading area that cannot be used as parking per village law*

560 *Total Required: 168 spaces for current use, before adding the spaces for the expansion plans*

565 *Under current uses, the BI falls 61 spaces short of being in compliance with village WG and other Village parking laws. Parking is already insufficient. Notably, during the WG hearings there were dozens of complaints about the current BI parking situation being terribly overcrowded and not sufficient for the existing business, but this was left unresolved after several requests by the CPF representative on the WG working committee. Add to that the plans to expand the business, needing another 9-12 parking spaces and the problem worsens. In actual use, the parking spaces needed may increase when additional cars are parked two, three, and sometimes four deep, clearly in violation of Village parking law. That leaves any additional parking that the expansion requires with only one place to go, and that would be out to the north onto the lakeside lawn of the BI building and patio. Clearly, that was not the intent of the WG law.*

575 *The Village's WG law is very demanding, and for good reason; after all, it is intended to protect our historic gateway. The village has written into the law that any "re-development" of a non-residential lot "shall comply" with the following:*

*180-68B-A-1. L, supply the Planning Board (PB) with a map or sketch of existing vegetation on the parcel*

580 *180-68B-B: provide the PB with building scale and streetscape renderings*

*180-68B-D: provide the PB that all driveways and parking maintains front lawns, and that parking be screened from road and lake.*

585 *180-68C-D: provide the PB a storm water management plan that is submitted and approved by the Village Engineer and Planning Board, assuring that post development runoff must equal or be less than pre-development runoff.*

590 *180-10-VI (paragraph 2e1 of subsection C of Section 180-113) assure that parking shall not be between the street curb and the front of the building, and that all parking areas shall not be within 50 feet of the sidelines, and assure the PB that any “changes in use” adopt the plan that “parking requirements shall be calculated based upon the total (spaces) required for all such uses” on that parcel. Meaning, all parking requirements for all uses on the parcel must be added together and the parcel must have ample parking for all those uses combined and used at one time.*

595 *180-113-A-3 the PB must be assured that “any change in use” shall require increases in “off-street parking and loading spaces” corresponding to any increases in “employees and customers.”*

600 *While the WG law may have been intended to support economic growth, upholding the law now may actually produce the opposite effect. In another WG case this past winter, a similar “pre-existing non-conforming” property in the WG zone abandoned expansion plans after the village explained all the WG requirements listed above. That user last winter determined that the WG law was too onerous, and backed away from their economic expansion within the village.*

605 *During 6 months of WG hearings this past fall, both the Village Board and the Planning Board Chairman supported and defended the WG law, and then the village board voted unanimously to pass the law. As such, they must also, then, insist that the specific requirements of that law be met. The PB could begin by publically acknowledging the measures it has taken with the BI to comply with the above.*

610 *Even with good intentions, the rationale for the new WG zoning has proven weak:*

615 *1. Despite the presumption that the residences adjacent to the BI could only be sold and preserved by allowing them to be turned into a commercial use via the BI acquisition and expansion, after the WG law’s passing several things have occurred contrary to the WG discussion: not only has the BI abandoned the expansion plans, but also one home has sold, and the new owner is investing substantial funds on renovations as a “residence” ...not a commercial property.*

620 *2. The previous illegal tenant in #5 Ledyard – now made legal by the WG zoning – publicly stated during the WG hearings her support of the WG law so she could legally stay in #5 Ledyard because she “could not find other commercial space for her business in the Village”. Since the WG law’s passing, not only has she taken her business out of #5 Ledyard, she has left the WG altogether and found other commercial space within the village.*

625 *3. The argument that the WG commercialization was necessary because people could not afford the taxes and upkeep of the big homes has been rendered weak. The neighboring owner who made that “un-affordability” argument during the WG hearings recently placed his neighboring WG residence on the market at almost twice the assessed value (for sale for \$2,500,000), which upon sale would result in double the taxes (if adjusted to 100% assessment), which runs contrary to the*  
 630 *prior “un-affordability” argument.*

*These results do not lend credibility to the law, the process, or the Village Board’s judgment. Nonetheless, your role as a PB is to uphold and enforce the letter of the law, with great attention to*

635 *detail. I ask that you apply that same attention to the BI as you have applied so well in other applicant situations.*

*Thank you for your time and your service.*

*Sincerely*

*D.H. Sparky Christakos*

640

Mr. Stokes: Go ahead and close the public hearing.

A. McDowell made a motion to close the public hearing. J. Gavilondo seconded. The motion carried with 5 in favor, 0 opposed.

645

R. Huftalen: The public hearing is closed. The Board will confer with Counsel before the meeting adjourns tonight.

\* \* \* \* \*

650

**Donald Fox, 4 Sims Lane, New Porch**

No one came forward. The Board had questions for a representative and, therefore, did not proceed.

\* \* \* \* \*

655

**Daniel Eberle, 12 Clark Street, Installation of Rooftop Solar Panels**

Tim Updyke, of NRG Home Solar, came forward as the representative.

660

R. Huftalen stated that Mr. Eberle submitted a proposal for rooftop panels. This is outside of the Historic District, so architectural review falls on the Planning Board. There is a provision in the Code, 180-116, on alternate energy devices. The Codes states that it is not to be located within any required yard, nor in any required buffer area, or between the street line and the principal building upon the lot. It shall not exceed 35 feet in height above grade. It is a rooftop, so it is not in a yard. With regard to the 35 feet in height, it is under that. However, another requirement is that alternative energy devices should be screened from off-site view to the maximum extent practicable.

665

A. Walburger stated that it is not practicable to screen solar devices.

670

R. Huftalen pointed out that this is new for the Planning Board. The first application the Board looked at was on Forman Street in the Historic District and the Historic Preservation Committee (HPC) approved it. It was not visible from the street. This one is not in the Historic District. It is clearly visible from the street. The Board needs a robust discussion because it is the first time facing this type of request. There is some guidance in the Code on how to deal with alternative energy devices, but it will have an impact. It is a disparate impact based on the side of the street from which it is viewed. This Board is going to get the first chance at the determination as to whether solar panels are architecturally compatible.

675

J. Gavilondo asked if the neighbors have been informed. Mr. Updyke said he did not know.

680

R. Huftalen noted that a request for solar panel installation in South Village was referred back to the Homeowners Association and it was turned down.

A. Walburger wondered if there were any trees or vegetation to be removed to enhance the installation of the proposed system. Mr. Updyke said none that he is aware of.

685 A. McDowell observed that the Board we might be dealing with this more and more. It seems like it is not fitting with what the Board likes in a neighborhood.

690 A. Walburger commented that it is 2015 and not 1815. The Board is considering an installation outside of the specially protected Historic Preservation District.

S. McEntee pointed out that rule #3 does apply regarding screening the view of the installation.

695 A. McDowell stated that it will be very noticeable from Burton Street. J. Gavilondo expressed her concern that even though the solar panels are meant to collect the sun, they would be very reflective.

S. McEntee suggested that it would be good for the Planning Board to see a rendering of the project to have a better idea of how it would look.

700 R. Huftalen said the file contains architectural and engineering data that would demonstrate that the roof can support the load. It does not have a clear elevation of how it would look from the street. The Code contemplates that the Board would have site plan review/approval in addition to architectural review/approval. He believes the Code was contemplating ground mounted structures. He is not sure that site plan review is pertinent in this case. R. Huftalen asked for any pictures of the existing house. Mr. Updyke said he did not have any.

705 S. McEntee wondered how the Board would interpret the screening part of the Code. Mr. Stokes said the use of the word “practicable” in this instance would mean that if it is impossible to screen without negating the functionality of the unit(s), then screening is not practicable. He agreed that the site plan part of the Code presumed that the panels would be ground mounted.

710 R. Huftalen said it is pretty clear to him what they are going to look like. They will be dark, shiny solar panels. He continued that as Adam stated before, this is part of a largely positive trend. There are a lot of other things to consider. It is not in the Historic District.

715 J. Gavilondo recalled a story not long ago about installing more panels than needed and selling the electricity back to the grid. R. Huftalen said that in a commercial facility, it is limited to 100% of the maximum generation for a 12-month period. J. Gavilondo asked if there is a residential limitation. Mr. Updyke said he believes there is. The way it works is that when it is over producing, electricity goes to the grid. Then that is saved up so when the sun does not shine, they draw off of the grid. Money cannot be made by using the solar panels.

720 J. Gavilondo expressed her concern that too many panels would be installed for such a small house.

725 A. Walburger inquired about the size and kilowatts (kW) of the array. Mr. Updyke answered 13.77. A. Walburger said that on average, that would be about 3 times the peak demand of a residence. However, they only get that for a few hours a year. There are only a very limited number of hours a year where it makes 13 kW. On balance, they probably are not making more than they are pulling in in a year even at that size array. One issue with this technology is: If you do it, you go big. There are fixed costs to overcome, so you install as much capacity as you can support. That is the general model. That is what the Board will be seeing in every application that comes in. They will want to

put as many arrays on the house as possible and then they will be secondly constrained by the actual installation cost. And that is usually what scales back the size of the final installation.

735 J. Gavilondo said in her mind she was trying to reconcile the solar panels with screening to the extent practicable. If they are asking to put in a giant thing, not because they really need it, but because they want to go big, and then they are asked to screen it--there has to be some give and take. They can't say: Because it is on the roof, it can't be screened. But it probably doesn't have to be as big as it is either. R. Huftalen commented that the size of something might not necessarily pertain to the screening. S. McEntee added that the section on the back roof would be screened by the front  
740 part of the house.

A. Walburger pointed out that with those kinds of exceptions, it is starting to establish a precedent for very limited exceptions. If you have a house that is a straight saltbox or a straight ranch, you only have two sides and if one of them faces south on the street, that interpretation that was just put  
745 forth would preclude that house.

R. Huftalen observed that the Code clearly contemplates alternate energy devices and then it sends it to the Planning Board for architectural review, and then our criteria for architectural review  
750 180-141(c)2 says:

*Such review and evaluation is not intended to and shall not dictate or encourage specific architectural designs. The intent shall be to discourage and prevent any design which appears to substantially disregard the characteristics of surrounding buildings and sites, including buildings and sites in an historic district or in transitional areas affecting an  
755 historic district, which may differ severely in scale and proportions from surrounding buildings or sites, or which may propose to use exterior materials and colors which are neither harmonious with surrounding buildings nor typical of a reasonable range of materials and colors normally employed for such construction, or which may introduce site elements which interrupt the established pattern of site treatment and settings, and which, if  
760 constructed as proposed, would be so out of character and detrimental to the desirability, stability, value, and benefit of surrounding building and site areas as to produce any of the harmful effects identified above and reasonably impair the general welfare of the community.*

R. Huftalen suggested that the Board look at that and try to balance it. Would the Board be  
765 impairing the general welfare of the community? Would the Board be unreasonably limiting the right of somebody to put solar panels on their house?

A. McDowell noted that this house would set a precedent.

770 J. Gavilondo called out this portion of the above Code paragraph: "differ severely in scale and proportions from surrounding buildings and sites." She believes this would differ severely in scale.

A. Walburger questioned how it would differ severely in scale. He remarked that there are no installations there, so differing from zero is substantially different and it is not a fair comparison. If  
775 everybody only had one square meter solar panel and then somebody wanted to put in a 100 square meters, that would differ.

A. McDowell questioned if the Board allows solar panels, would there be a rule for screening in the Historic District and not for areas outside of the Historic District.

780 R. Huftalen said that anything in the Historic District would need approval from the HPC.  
Mr. Stokes added: In accordance with the standard for issuance of a Certificate of Compatibility.  
He does not see how they could be allowed at all, in a similar scenario, in the Historic District when  
785 visible from the street because these materials cannot be made compatible with the older historic  
sites. He believes they will be effectively precluded from being building mounted in the Historic  
District where they would be seen from the street. Outside of the Historic District, the Board is  
asking all of the right questions and focusing on the right aspects of it: Is it so extremely dissimilar,  
unusual, incongruous, inharmonious or discordant? If the Board says no to this application, it is not  
790 necessarily saying no to all solar panels, but it is saying no to the ones that face the street. The Code  
does allow these devices. Does the Board have the authority to say no? Mr. Stokes said it is his  
interpretation that under architectural review, the Board does have the authority to say no in  
particular instances and whether this is one of them, is up to the Board. When the Trustees adopted  
this provision, they said “subject to architectural review and approval.” That gives the Board the  
795 legal authority to say no in a case where standards cannot be met.

800 R. Huftalen proposed that the Board continue consideration of the application and ask the applicant  
to provide a better rendering of what it would look like from the street. It would give members of  
the Board an opportunity to get input and guidance from the legislators or members of the  
community, specifically the neighborhood. It would give the Board more of a feel of how the solar  
panels would impact the community.

805 Mr. Stokes asked if the Board would like information justifying the number of panels, thinking that  
the Board’s point was that if there were fewer panels, it would have less of an impact. J. Gavilondo  
answered yes, she would like that information. A. Walburger said he thinks it is fair to ask for that.

A. McDowell asked if the panels could be located elsewhere on the house. Mr. Updyke stated that  
the sunlight hits the front of the roof, therefore panels cannot be moved to the back. He does have a  
record of the homeowner’s energy use and how much the panels produce.

810 R. Huftalen questioned if this is a matter for elected officials. Mr. Stokes said the Planning Board  
has to make its own decision. J. Gavilondo wondered if the Village Board would consider revising  
the Code for alternative energy devices.

815 R. Huftalen said that it would be helpful for the homeowner or Mr. Updyke to contact the neighbors  
because their opinions would be important to the Board. If the Board does not know what the  
neighbors are thinking, the Board might presume they are not in favor of the solar panels.

820 S. McEntee commented that he applauds the homeowner for saving natural resources, so it would  
not bother him. However, he would not be allowed to put them on his own house. There are  
differing opinions. Some significant objections are possible.

825 R. Huftalen advised Mr. Updyke to augment his application with the aforementioned information, as  
well as any other supporting information, by August 3 in order for the Board to consider it at the  
next meeting on August 10 at 7:00 p.m. Mr. Updyke asked if he needed to be present. R. Huftalen  
replied that a representative is needed.

\* \* \* \* \*

**Regarding Empire Farmstead Brewery**

830 Anne Ferguson: About a month ago when they broke ground for the Brewery, there were statements  
 in the Post Standard from Mr. Katleski in terms of what was going to be there. I wonder if you have  
 heard or received anything to reconcile what he is saying now about having a full restaurant and  
 50 employees versus the 20 that he had on the application. There are other differences. I thought,  
 835 do we wait until Bill Carr (Zoning Enforcement Officer) is making inspections? Did he take  
 anything back? When does this get addressed? I looked at his application to the State. He has three  
 event planners budgeted in his application to the State. He stated that he plans on no big events. I  
 was wondering if you have been able to get anything or if anyone advised the Board. How do we  
 reconcile that?

840 R. Huftalen: I know Bill [Carr] has been on the site a number of times with regard to the plans. I do  
 not have the Resolution in front of me. I am not totally up to date on the details. I do recall that  
 when those articles came out, we had a discussion.

845 Mr. Stokes: We did have a discussion in terms of the menu. There was a discrepancy between a  
 limited menu and a full service restaurant menu that they more recently stated. There is nothing in  
 our Resolution that limits what he can have on the menu. It is not limited in terms of the scope. A  
 restaurant use is allowed in a Planned Unit Development (PUD) District. There is no limitation  
 placed on the scope of the restaurant. Whatever he can fit Health Department wise and within the  
 confines of that space, he would be allowed do it. Number of menu items is not within the Planning  
 850 Board’s purview.

Ms. Ferguson: It was the understanding that he would not compete with the Brewster Inn or the  
 Brae Loch, or whatever else, and that he did not have any intentions of having a sit-down restaurant.  
 The number of employees was the other item. I wanted to make certain that he was being above  
 855 board with the Planning Board and the State. There is a difference between the application and what  
 the public understood.

R. Huftalen: Jody Reynolds was here and there was an extensive discussion. We can look at the  
 minutes from that meeting. In scrutinizing the Resolution, we allowed a restaurant use.

860 \* \* \* \* \*

At 8:46 p.m., R. Huftalen made the motion to adjourn to executive session for privileged  
 attorney/client discussions. S. McEntee seconded. The motion carried with 5 in favor, 0 opposed.

865 R. Huftalen called the meeting back to order in regular session at 9:06 p.m.

**Richard Hubbard, Gazebo at the Brewster Inn, Public Hearing (continued from earlier in the evening)**

870 R. Huftalen said that after conferring with Counsel, discussion among the Board members, and  
 trying to apply the facts of the application to the legislation, it was decided that more time and input  
 is needed and the discussion should be continued at next month’s meeting. The Board would like to  
 get more input from Counsel.

875 Mr. Hubbard: If I got permission from this Board, over 31 years, for all the parking I have, when  
 you create a new lot and it says no front loading, it should not change the rights that I already had  
 because you have a new law.

Mr. Stokes: No one from the Village is asserting that.

880 Mr. Hubbard: I'm just following this out. It cannot be an argument that my parking is in the front. It would not apply. You cannot take away the parking I already have. I am grandfathered the way I was.

885 Mr. Kent: What information is needed from us?

R. Huftalen: It would be good to have additional information about the intensity of the use and information about how the size of the kitchen limits the use.

890 Mr. Hubbard: Other people use my parking lot. For example, last weekend we had people in the parking lot because of the craft fair. One day, runners packed my parking lot. For fireworks, we have people parking there. We have to guard our parking lot, not from our customers, but from others who want to use our parking lot because it is convenient to everything else. The tennis club is in the Western Gateway. They are all front loaded parking. They do weddings for 200. They had a tent up for the last three weekends. Did they apply for a tent? Was it up five days? I don't care. I don't mind seeing it. It was smart of the Northrups to put it up. It was pouring rain all day long. Are they going to have the same rules I do? The president of the club, who has only 30 parking spaces, does the same or bigger wedding. I don't even do weddings because I don't have a tent. How does he get away with parking on his lawn? I don't care that he parks on his lawn. I'm a member. I park on the lawn there. We all do. There is just no parking there. How can that one person sit in judgment on this entire town when he, himself, does everything wrong? So letters from that type of person need to be thrown out. I need to know if I still have control of my parking lot.

905 Mr. Stokes: The public hearing is closed. No additional public comment is being taken.

R. Huftalen made the motion to adjourn the meeting. A. McDowell seconded. The motion carried with 5 in favor, 0 opposed. The meeting was adjourned at 9:12 p.m.

910 Respectfully submitted,

Marlene A. Westcott  
Recording Secretary