

Village of Walden  
Planning Board Meeting  
February 4, 2019

Chairman:	Stan Plato	Present
Members:	Jay Wilkins	Absent
	Lisa Dore	Absent
	Jason Trafton	Present
	Zac Pearson	Present
Alternate:	Vacant	
Building Inspector:	Dean Stickles	Present
Village Attorney:	Robert Dickover	Present
Village Engineer:	John Queenan	Present
Secretary:	Marisa Kraus	Present

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Chairman Plato - Called the meeting to order at 7:30pm.

**1. APPROVAL OF MINUTES:**  
**January 16, 2019**

Member Pearson moved to approve the minutes for January 16, 2019. Seconded by Member Trafton. All ayes. Motion carried.

**2. BOARD BUSINESS**

**A. PUBLIC HEARINGS:** None

**B. FORMAL APPLICATIONS:**

**B.1 126 North Montgomery Street, Conceptual Development Plan**

**Chairman Plato:** Well this was before us before. I thought it doesn't fit the zoning. Could you give us some background on that?

**Attorney Dickover:** Does not fit the zoning currently. Back in February I was just reading the minutes from a year ago February, 2018. He was here with his proposal for some lengthy conversation about the project not meeting zoning. I understand at that time Mr. Donnelly had been to the village board. Seeking zoning changes that would accommodate the project and the message that we got back from Mr. Donnelly as well as my partner Dave Donovan who was at the Village Board wanted this board to review or undertake a review of this project is the zoning were in place for it as a project moved along in that respect the Village Board would then entertain zoning changes that might allow the project to occur. Mr. Donnelly was advised that he was doing all that at his own risk with the prospect of the Village Board not changing the zoning is ever present. To seem to me if I were the applicant I'd be cautious that because village boards change personnel change, opinions change and there's no guarantee that they say today they're pleased with the project. I get the same answer at the tail end of this application when it might be ripe for approval and there is no zoning changes forthcoming. I think Mr. Donnelly at that point left the board with the idea that he would continue to design the project.

**Chairman Plato:** So I mean we had one board member say short of the Zoning Board of Appeals but that's not their position yet right.

**Attorney Dickover:** We just take the project presented to you. You could suggest to the applicant that he pursue variances in front of the Zoning Board of Appeals.

**Chairman Plato:** But would they have the authority to give a variance on this since it's not something not permitted in the zone.

**Attorney Dickover:** They could grant a use variance. It's extremely unlikely they would do so because it's a self-created hardship which would make that kind of an application fatal.

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**Chairman Plato:** So really the best approach would be to go to the village board.

**Attorney Dickover:** Or to pursue the application as it's been presented. This board can't simply refuse to entertain an application. That's not in your purview. Here you have an application then submitted. It is incumbent upon you if the applicant wishes to have it reviewed. So you find yourself in a strange world where you don't know what the rules are. But you got to play the game. And having filed an application requesting that you review it and really all you can do is review it and make note of the zoning changes that were or the variances that would be required for approval. Ultimately issue a suit.

**Chairman Plato:** You do understand that that we could not grant any approvals.

**Mr. Donnelly:** I understand. I have no reason to believe that they haven't got that zoning as this project moves forward everything goes forward with the board. They're going to change his own company.

**Chairman Plato:** I don't know how far we can go rather than. As a board can we go with the currently right to a denial?

**Attorney Dickover:** That's all the choice the alternatives are would be to deny it ultimately or to table the application pending some zoning changes that might or might not be forthcoming from the village board. As I say it is incumbent upon me to review the application. You can simply refuse to do that.

**Chairman Plato:** OK then let me ask you about fees to the Attorney or engineer.

**Attorney Dickover:** I saw a note somewhere in the hills indicating that escrow was posted with the village board.

**Building Inspector Stickles:** Everything's in place for it.

**Member Trafton:** Would the county referral have to be redone?

**Attorney Dickover:** This board would have to refer it to the county. The Village Board would presumptively have to refer the zoning changes to the county. If there are letters back to this board, our advisory if they make conditions to the letter. Their letters are advisory. Typically, the applicant can read the comments and comply with the conditions.

**Chairman Plato:** So, to sum up, we do a review and deny. We know the outcome.

**Attorney Dickover:** This board certainly this land not for a second so 239. I don't remember my comments about being subject to 239 or not.

**Kristen O'Donnell:** Yes it would be subject to 239 based on the proximity to the state rep.

**Attorney Dickover:** OK so let's get to 39 this board would have to refer it to the county and the Village Board for presumptively after refer the zoning changes to the county and understand if there are letters back to this board or advisory if they tell you that it's you know they make. Conditions to their letter it changes the voted requirement of this board for approval purposes but their letters are advisory. And typically the applicant having read comments that come back from the county typically would comply with the conditions that might come back.

**Chairman Plato:** So, really it's somewhat the way we do a review on this like its own property and everything goes to the whole process.

**Member Trafton:** So the use is permitted?

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**Mr. Marshall:** Yes it's permitted. It is in the R3 zoning district senior city citizen having built it has a special exemption use. The density is such that I think you're allowed three or four units per acre. And then what the proposed zoning you the draft zoning or the meters use as a basis to establish that the unit count that we presented allows up to it. There are density bonuses and you have that in the zoning it's just expanding upon that, sort of adding more ancillary amenities to the application. We've indicated which amenities the applicant is prepared to pay.

**Member Pearson:** But that still doesn't get you up to the total you're looking for.

**Mr. Marshall:** It's 60. That's for security. So it's 69 total units. If the proposal of the law was drafted in 2017. Where if you pass, as it was drafted this application, we would meet that zoning requirements.

**Attorney Dickover:** Has there been a draft local law. And the best shared with the boarding call saying it was a referred to this board for comment. I don't think so.

**Chairman Plato:** Do I keep talking about one or the bonus features, don't think it was. I forget when though.

**Attorney Dickover:** That's the label as a 2017 ordinance that would have been even before Mr. Donnelly was here last year. Well we'd have to be presented to that because it's a zoning law change has to be sent to the Planning Board for comment.

**Chairman Plato:** Want to know what prompted him to change. I would believe you have an application.

**Attorney Dickover:** I think Mr. Donnelly has been at this for a while now.

**Mr. Marshall:** The basis is the view that the draft local law. If you provide eleven or more ancillary facilities you'd have the density of an additional seven units per acre on top of that would be for making this.

**Attorney Dickover:** This board did see this and some other comments are coming back to my mind this point. The comments about the amenities whether or not they be part of the project or not. Notwithstanding density bonuses and you think asking the village board to revisit that question.

**Chairman Plato:** What I think we should do is give us a presentation on what you're planning on doing which you'd like to do. We're gonna have questions about things that have changed when you were here before. Why they changed. We will start there.

**Mr. Marshall:** There are two lots existing. So the 6.22 acres in total between parcel A and parcel B there is an existing out parcel right in the center 100 foot lot and an existing dwelling on it that is not part of this application. We don't intend to modify it although we do intend to develop around it. There is a dwelling and a garage currently on the facility.

**Chairman Plato:** Is that landlocked.

**Mr. Marshall:** So there is a generic easement included within that deed but it says rights to future road of which obviously the future road was never constructed. So there is a right though it's not a specifically described easement. It just says rights over the future road.

**Chairman Plato:** I'm sure you'd want to see that right Robert.

**Attorney Dickover:** Well is this project goes forward. They're gonna have to show on as part of its development access to that parcel. So I don't need to see it now to get where it is.

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**Mr. Marshall:** It's non geometric, there's no meets and bounds description for it doesn't even give you a width description.

**Attorney Dickover:** As the owner of the property he can put it wherever he wants.

**Mr. Marshall:** There is the existing driveway, there is infrastructure already on property there's a man hole that's right out for only existing house, there's actually even a hydrant up into the facility which ends up being underneath the proposed building. Obviously we'll modify that but this large open area in the back has been mine for many years and that's kind of why the topography looks the way that it does. But as part of this application these two lines would be combined with one. We'd eliminate the common lot lines between the two parcels. That's in favor of the development. Now, this is obviously conceptual in nature there's a lot of detailing that needs to be added to the plans. We show an L shaped building. If you recall the previous application I was presented had it at just a very long and almost straight. But there was some a little bit of jobs in it. We felt that that didn't work with the topography on the site. There is a decent amount of rise towards the back of the site in comparison to the front we've provided some preliminary grading around the facility to accommodate the closed building but there is a typo on the site plan. There are twenty three units per floor as it was 38. I apologize for that mistake. That's noted several times in the consultants review letter. We will make that connection. The access is off of Rte. 52. Basically right in front of the House come up swoop down to the south. And then come up to the facility and that that kind of snaking allows us to get to a higher elevation. L shaped building primarily the majority of the parking would be located on the north side of the building inside the L. There is a row of parking along the south side as well southwest and southeast side and then a row a small row of parking along the northeast side.

**Chairman Plato:** Now one of the questions you're required to have how many how many spaces.

**Mr. Marshall:** Based upon the senior housing, requirements senior citizens in developments we're required to have 52 parking spaces. And we show 113 here.

**Chairman Plato:** Why so many more.

**Mr. Marshall:** Well that's something that we can work with, with the board. The reason that we showed 113 is because the previous size application has many as 180 and we were questioning why that application had shown so many for the same number of units. We were not involved with that original application we showed 113 and said well I work with the board. We showed what we can fit right. And then we figured the more that we can pull in and allow green space to be around the facility, the better it's going to be for everybody. But again you know as far as what's required by zoning and what meets that facility. The grading that's being shown, there's a decent amount of cut towards the rear and decent amount of fill towards the front. We haven't done a cut fill analysis but based upon our experience it's fairly close to balanced. Basically rolling the back material towards the front. We do show three parking, three garbage facilities dumpster enclosures around the facility. One on the westerly side. One on the northeast side and one on the easterly side of the facility. We show sidewalks around the entire facility and then down connecting down to Route 52 and then along 52 towards the road to the south. Again one access point off of 52. There's some question as apart as far as what's going to happen to the existing dwelling. We would like to keep it if that's something that we can work out. Use it as a maintenance area, storage of truck for plowing and equipment for maintenance to the facility. Show the storm water basins that are on either side of the proposed entrance.

**Attorney Dickover:** Residential purposes for the existing structure?

**Mr. Donnelly:** No that's just going to be the maintenance area.

**Chairman Plato:** So why wouldn't you combine all the lots together?

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**Mr. Marshall:** This is part of the facility. This one up here is an existing building that's located on the northeast corner of the property so that that we do intend to keep outside the proposed rating. There's no easy way of getting up to the facility from there and really, if this were a vacant property this obviously wouldn't be proposed. But because it's an existing house and in decent condition you know it's not something that we're looking to do.

**Chairman Plato:** Have you done any renderings, like what is going to look like from Route 52.

**Mr. Marshall:** So, we don't have any updated renderings for this structure. But we do have the original renderings that were completed for the original application.

**Chairman Plato:** We're starting like 30 feet higher than Route 52 and then you're putting the three story buildings.

**Mr. Donnelly:** What we did was we've got rid of parking underneath the building. So that's going to bring the elevation.

**Mr. Marshall:** This is the renderings that were written that completed.

**Chairman Plato:** Basically the same height as what it was before.

**Attorney Dickover:** Mr. Donnelly said that this will meet the height requirement. The three story building, is that an accurate statement that is going to be by department.

**Mr. Marshall:** Based upon his architect's assessment.

**Chairman Plato:** Dean, what do you think?

**Building Inspector Stickles:** I don't know any more honestly. Yesterday it was 12 feet.

**Chairman Plato:** Your highest grade here is 532 finish grade first floor.

**Member Pearson:** The top of the third floor would be at 60.

**Chairman Plato:** Grade now shows his now 540.

**Mr. Marshall:** The highest point on the site is 540. So 548 is where that grade would stay. Top floor is gonna be 67.

**Member Pearson:** They would just be looking at 20 feet of building above the grade that's already there.

**Member Trafton:** I'm assuming the more detailed plan will have landscape detail.

**Mr. Marshall:** The intent of this was to receive initial feedback. See if there are any major issues that we needed to work on before you proceed into any sort of level of detail. Like the storm water plants and landscaping, lighting.

**Member Pearson:** The existing dwelling, is it your intention to keep that existing gravel driveway out for that access.

**Mr. Marshall:** For that we don't show any modification to that. We'll have to figure that out.

**Member Pearson:** The DOT will have something to say about that.

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**Mr. Marshall:** I mean there may be some modifications to the driveway. We don't show any right now.

**Attorney Dickover:** The in the house in the middle, Marlene Sparks place, she gets her access via the gravel drive that's off her premises. So, Mr. Donnelly currently owns all of these parcels so at some point you're gonna have to show deeded access in favor of that property. Because you know conceivably been taken to project in, that house are you sold off to the separate parcel of an after show access to it. It doesn't currently front upon any kind of Village Street. You highlighted in the bulk table, setbacks that are currently violated by this proposal.

**Mr. Marshall:** No violation of any.

**Attorney Dickover:** And you meet all bulk area requirements.

**Mr. Marshall:** Yes, it does. The front yard is 20. Side yard is 15 and 30 and a rear end is 20. If you see their limit partners who we can we can pull them up.

**Attorney Dickover:** You just did the maximum height 35 required maximum and then proposed just a dash line.

**Mr. Marshall:** We don't have the final architectural plans that we could base the height off.

**Attorney Dickover:** Equal to or less than 35 feet.

**Mr. Marshall:** The intent at this point would be less than or equal to 35.

**Building Inspector Stickles:** Your front and rear set backs are right for the R3.

**Mr. Marshall:** I believe so.

**Building Inspector Stickles:** I thought they were 35 for the R3.

**Mr. Marshall:** I'll check into it.

**Attorney Dickover:** Going back to the parking spaces, we're showing 52 is required and they're providing 113.

**Mr. Marshall:** Yes.

**Attorney Dickover:** You know as you go forward with this if you think that's too much, the applicant could perhaps show an area reserved for future parking if required. And since they're showing 113 here, there should be space somewhere for that kind of banking number a reservation for future parking if needed. .

**Member Trafton:** Dean, is there like some kind of ratio as far as what you take down and what you need to replace?

**Building Inspector Stickles:** They'll have to give you a tree plan. I think it's what you take down, you replace. Doesn't matter what caliper it is.

**Attorney Dickover:** The proposed access to 52 is roughly across the street from existing dwelling?

**Mr. Marshall:** Yes.

**Attorney Dickover:** You know more about this than I do, but the DOT can probably look at that as interesting.

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**Mr. Marshall:** Main reason for that can be lost and that is because we actually originally had it lined up but I was worried about the legal right and I was probably scared of relocating or modifying. If we can modify them at their entrance and give them an access off of the proposal right away. The desire to slide that up and out.

**Attorney Dickover:** Maybe I missed something that doesn't Mr. Donnelly own this?

**Mr. Marshall:** We don't have any rights to that.

**Attorney Dickover:** So when you have an undescribed non geometric right of way that services the Sparks properties so Mr. Marsh's comment about relocating that may be accurate. There may be some issue relocating that driveway.

**Mr. Marshall:** We had approached them and asked them if they would entertain that idea. I don't know that I can legally modify that.

**Mr. Donnelly:** We can shift over the entrance to where that entrance comes in and come around.

**Member Pearson:** But I think the state is gonna have something to say about that.

**Mr. Marshall:** We expect that. Easiest thing is to see if we get an agreement with them to modify their entrance and get a formal easement.

**Attorney Dickover:** Well if it's not geometrically identified that you took your driveway and brought it like that to catch them and they're just trying now into your new entrance.

**Mr. Marshall:** It's like one line at the very end of their deed said subject to rights to the future roadway.

**Building Inspector Stickles:** It was a subdivision in the 60s and that was the only house in subdivision. That's why its fire hydrants is way up in the woods and that's why there's sewer in there.

**Member Pearson:** What if the access had to go where the driveway is.

**Mr. Marshall:** Basically we need a longer run to be able to make the percentage right. Otherwise the grades are far in excess of what's a comfortable drive you know off the roadway. Right now that main drive is about 8 percent grade which we really don't want to get too much. We don't want to modify that too much if we get flatter. Great.

**Attorney Dickover:** So Mr. Stickles just said that the driveway servicing the Sparks premises is shown on a previously filed subdivision map.

**Mr. Marshall:** I don't know if it was ever filed with the county clerk's office.

**Building Inspector Stickles:** It was from the 60s and where it was filed, if it was, I don't know that. But I know I've seen the maps for that, it was a subdivision many many many years ago.

**Mr. Donnelly:** I've paid taxes for the past three years and I've paid one hundred thousand dollars in engineering and I have the rights to the project.

**Member Pearson:** You have the contract and deed?

**Mr. Donnelly:** Yes.

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**Member Pearson:** Is that 2 on 1 in that area?

**Mr. Marshall:** Assuming 2 on 1.

**Attorney Dickover:** Larry would you just check your application submission to see that it has an owner's endorsement.

**Mr. Marshall:** We will certainly look into that.

**Attorney Dickover:** Gene has a copy of a contract of sale from February 2016.

**Mr. Marshall:** It was my understanding that one was submitted previously but yeah we'll check on it and see if we can get a new one.

**Attorney Dickover:** We're dealing now with site plan and maybe it's still applicable and I probably should be refreshed.

**Mr. Marshall:** Does the board have a standard word or you just use a generic test.

**Attorney Dickover:** The contract is with 226 River Road Realty LLC. The application is submitted by Mr. Donnelly's personal name. So you're going to have demonstrate for us that the contract's been assigned to Mr. Donnelly is the applicant.

**Mr. Donnelly:** I own 226 River Road Realty LLC.

**Attorney Dickover:** So let's just get the applicant consistent on the paperwork so we know who the applicant is currently showing this for Mr. Donnelly that I would presume that based on his contract he wanted to be a realty company. It was a pleasure to have a state of the paperwork. And we're going to need an answer to whether or not this gravel driveway servicing the Sparks home was shown on the previous sub-division map because if it is, we've got other issues concerning relocating.

**Mr. Marshall:** I don't believe there is anything that's been filed with the county clerk's office. Based upon our records and research that we did. We can go back and make sure. Dean do you recall where you saw those maps?

**Building Inspector Stickles:** I think so and I think if I look tomorrow, I think I may be able to find what I'm looking for and will give you a call and let you look through it to see what you find.

**Mr. Marshall:** Great. I'll be in the Walden area tomorrow morning.

**Member Pearson:** Will these basins have overflows to the state.

**Mr. Marshall:** Yes.

**Member Pearson:** So the state will be looking at the connections.

**Mr. Marshall:** Yeah they're going to review our drainage plans.

**Member Pearson:** Because I don't see any drain. I don't see anything kind of on the frontage. Just curious how do you get in.

**Mr. Marshall:** It's a very unique area and I'm not sure there's an outlet.

**Member Pearson:** Well there's one back here, as you come to the south.



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**Mr. Marshall:** I think there's a low point the middle there.

**Member Pearson:** There's sewer off that existing road and it just stops?

**Mr. Marshall:** Yes, the manholes are the last.

**Member Pearson:** Would that be your connection point.

**Mr. Marshall:** If it proves to be active again. We don't know that the state of that manhole. It will certainly work by gravity.

**Chairman Plato:** Number 14, this says a property is also one of the sensitive architectural areas.

**Kristen:** It's an automatic fill in the map. And because there's another state permit required that means that SHIPPO becomes required. The applicant does it themselves upon their materials and they'll generate a letter from SHIPPO that says you require initial investigation or it will say we don't believe that there's any impact. That won't be one of the various documents that would be required so there's gonna be a storm water management or sewer all those analysis will be part of their SEQRA analysis.

**Member Trafton:** Is there any concern with the neighboring properties with the run off to the south?

**Mr. Marshall:** We're lower than them, so we would actually be receiving runoff.

**Attorney Dickover:** The last part of your review, you might want to consider some screening or some sort of plant up there on the crest of that so be it some of the visual impact.

**Chairman Plato:** To get the bonus spaces spent for the number of units, I think you have to have complete building plans to see if there's a recreation area and some other things.

**Attorney Dickover:** Have to see the amenities.

**Mr. Donnelly:** Architecturally, I've spent quite a bit of money just to do what I did. I have plenty of room to fit all those amenities in the building. Now if you say yes, if the zoning gets approved, then I'll go and I will have the architect finished and give us some working plans.

**Chairman Plato:** There are certain things like, self-service laundry. The number of units it must be a certain size. You can't have one washing machine and one dryer.

**Kristen:** I think that's a fairly appropriate request to ask for floor plans. I think as you said, is it three watchers? Is it adequately sized amenity? You're asking to see the size comparatively to the number of units that are provided. You're getting a benefit. So you want to see what's actually being provided. I think floor plans are completely appropriate request.

**Mr. Donnelly:** I just have to change the configuration that I proposed earlier and there's way more space and you have a beautiful recreation area, a sitting area with a fireplace in the lobby when you walk into the building. You know it's not going to be a tenement facility but I'll provide you a layout showing all the amenities. I've also been kicking around instead of making a laundry facility putting each unit their own washer and dryer. Because with the seniors, as long as I get the same benefit for the unit space I may want to do that just because the elderly people won't have the carry the laundry down to the laundry room. But as far as the gathering room, the library is going to have separate spaces. The gymnasium, with treadmills and not just some weights and equipment. A little bit kitchen with a facility big enough so we could have community meetings.

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**Chairman Plato:** You're allowed 11 dwellings per acre, so you come out with 68.4 rounding up to 69. Is that appropriate?

**Kristen:** He's rounding down to 69 because the final one doesn't count because it's a caretaker. So, the property manager doesn't count against you density.

**Chairman Plato:** So we're going to review this. I guess we'd like you to address whatever road John has put down on here.

**Attorney Dickover:** I was away last week so I only saw this today. Most of what I would have put in my memo was addressed by John already, so I don't know that I'll have anything further. Perhaps when you see the revised plans.

**Mr. Marshall:** I think we have some work to do as far as it relates to the access.

**Member Pearson:** I mean if the local law is kind of go in the zoning works for this and you can have that many units, the visuals the biggest thing.

**Chairman Plato:** Might want to look up the tree ordinance too because there's a lot of trees there.

**Mr. Donnelly:** Well, there's one thing that you get to keep in mind also when you're looking up the hill the building is kind of L shape so it's not like you can see the one facade.

**Kristen:** That's where the comment regarding the parking comes into play because you've got 50 additional spaces over what you need that could be a place for you to put some additional landscaping. Also you can mitigate visual impact through architectural design as well. You can work on the location of the building on the site with respect to how much space, how much set back you're given in additional places about grading. You can't plant trees on two on one slope and you have to work on grading. These are all things that have come through design and they need to be taken into consideration.

**Attorney Dickover:** Design the projects so that the board can get beyond the adverse environmental consequence individuals otherwise you may find yourself into a type 1 process.

**Member Pearson:** It's perspective too. It's a balance.

**Chairman Plato:** What you're hearing from the board is that we're not against this, but the visual impact has to be addressed.

**Mr. Donnelly:** They're all behind the hill. Like in the building.

**Member Pearson:** But your building is going to be 20 feet above the highest point on their property. If you're looking right up at it. I don't know what kind of vegetation they have there but some of these people have shed, the carport, shed and shed against a backdrop.

**Mr. Marshall:** There's a lot of work that has been. We have to get the board to a level of comfort as visual impact. So, I understand. And we'll do what we can to work on the plan and get something together. If we can take one step back before we move on I appreciate the amount of time that you spent on this this evening. But as far as the parking, is there anything obviously from our perspective, is there a certain level that the board is comfortable with that you want to try to get down to.

**Chairman Plato:** I think three quarters per dwelling is not enough. There should be visitors from visitor parking, but I don't know what that number is.

**Member Pearson:** What's the functional number, it's somewhere between 52 and 113. It's probably

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closer to 52 right?

**Mr. Marshall:** What I was thinking about is these facilities, it's 55 and older. It's reasonable to consider that every occupant would have a vehicle. So, at the very least you need 69 parking spaces on top of it. So I think the 53, is just not adequate. 113 certainly we can trim off the top of that.

**Attorney Dickover:** One and a half per unit is probably the right number.

**Mr. Marshall:** You know it's just that balance of green space and potentially landscaping areas versus having unused parking and the worst thing that I see driving around is just this massive parking which is unnecessary.

Member Trafton made a motion to close the meeting. Seconded by Member Pearson. All ayes. Motion carried.

**C. DISCUSSION ITEMS:** None

**D. INFORMATION ITEMS:** None

**E. CORRESPONDENCE:** None

**3. COMMUNICATIONS:** None

**4. EXECUTIVE SESSION:** None

**5. MEETING ADJOURNED at 8:42 pm**

RESPECTFULLY SUBMITTED  
Marisa Kraus, Village Clerk  
Planning Board Secretary