

**PLANNING BOARD  
TOWN OF BETHLEHEM  
JULY 1, 2003**

The Planning Board, Town of Bethlehem, Albany County, New York held a meeting, on Tuesday, July 1, 2003, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Douglas C. Hasbrouck presided and called the meeting to order at 7:35 p.m.

Agenda Items: **Public Hearing #1 - Amsler Subdivision**  
**Public Hearing #2 - RDA Associates Subdivision**  
**Approve Minutes - Meeting Held May 20, 2003**

Present: Douglas C. Hasbrouck, Chairman  
Brian T. Collier, Planning Board Member  
Howard B. Engel, Jr., Planning Board Member  
Parker D. Mathusa, Planning Board Member  
Katherine L. McCarthy, Planning Board Member  
Daniel S. Odell, Planning Board Member

Deborah M. Kitchen, Acting Secretary to the Board  
Jeffrey Lipnicky, Town Planner  
Randall J. Passmann, PE, Dept. of Public Works

Duane E. Amsler, Sr., 80 Blessing Road, Slingerlands, NY (Applicant)  
Beverly Amsler, 80 Blessing Road, Slingerlands, NY  
Dawn Amsler-Nunziato, Albany, NY (Future Owner of Subdivided

Parcel)

Richard Nunziato, Albany, NY (Future Owner of Subdivided Parcel)  
Joan Anderson, 15 Mosall Drive, Slingerlands, NY  
Jeanne Bender, 7 Mosall Drive, Slingerlands, NY  
Patrick Bender, 7 Mosall Drive, Slingerlands, NY  
Barbara Blumberg, 121 Meadowbrook Drive, Slingerlands, NY  
Helen Bonneau, 130 Blessing Road, Slingerlands, NY  
Anthony Cifello, 14 Sandhurst Drive, Slingerlands, NY  
Michael Cohen, 3 Staffords Crossing, Slingerlands, NY  
Melissa Dubin, 35 Mosall Drive, Slingerlands, NY  
Richard Dubin, 35 Mosall Drive, Slingerlands, NY  
Diane Hallenbeck, 120 Meadowbrook Drive, Slingerlands, NY  
Judy Phelps, 12 Rose Lane, Slingerlands, NY  
Meg Roche, 52 Staffords Crossing, Slingerlands, NY  
Steven Septer, 3 Mosall Drive, Slingerlands, NY  
William Solis, 11 Mosall Drive, Slingerlands, NY  
Anita Wahlen, 16 Sandhurst Drive, Slingerlands, NY  
Jacqueline Watsky, 31 Mosall Drive, Slingerlands, NY

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Jay Watsky, 31 Mosall Drive, Slingerlands, NY  
Euid Watsky, 31 Mosall Drive, Slingerlands, NY  
Douglas Vink, 23 Sandhurst Drive, Slingerlands, NY

Antonio J. Califano, Niskayuna, NY (Applicant - RDA Associates)  
Joseph Califano, Niskayuna, NY  
James Driscoll, 521 Russell Road, Albany, NY  
Patricia Driscoll, 521 Russell Road, Albany, NY  
Michael Fowler, 521 Russell Road, Albany, NY  
Judy Phelps, 12 Rose Lane, Albany, NY  
Phillip Scott, 541 Russell Road, Albany, NY

## **PUBLIC HEARING - AMSLER SUBDIVISION**

CHAIRMAN HASBROUCK: Okay. Tonight's agenda we have two public hearings...the first of which is for the Amsler Subdivision scheduled for 7:30 and it is now a couple of minutes past that so we can start. I'd ask first, for a motion to indent the public notice into the record.

PARKER MATHUSA: So moved.

DANIEL ODELL: Second.

CHAIRMAN HASBROUCK: All in favor?

BOARD MEMBERS: Aye.

CHAIRMAN HASBROUCK: Opposed?

BOARD MEMBERS: No response.

**Notice is hereby given that the Planning Board of the Town of Bethlehem, Albany County, New York, will hold a public hearing on Tuesday, July 1, 2003, at 7:30 p.m., at the Town Offices, 445 Delaware Ave., Delmar, New York, on the application of Duane E. Amsler, Sr., 80 Blessing Road, Slingerlands, NY 12159 for approval of a one (1) lot subdivision located at 12 Mosall Drive, Slingerlands, NY 12159, Albany Co., NY, as shown on map entitled: "AMSLER SUBDIVISION, Town of Bethlehem, Albany County, NY, dated March 27, 2003, revised June 6, 2003, and made by G.R. Thibault, LLS, Albany, NY.**

CHAIRMAN HASBROUCK: Okay. Let me next explain...because I think there are probably people here who have not attended public hearings before...let me just explain the way we kind of work this. The applicant will make the presentation, describe the project, I'll ask the Planning Board if they have any questions that they would like to address at this time...we've seen this project already to some extent...and then I'll open

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the floor for any public comment or questions. We do not tend to separate people who want to speak in favor of a project, or in opposition, or who just want to ask questions, or whatever, so anybody is free to get up and speak or ask questions at any time that you want to once the floor is open. We'd ask that you use the microphones here in front because it is a public hearing. It is recorded verbatim. And we'll ask you, before you speak, if you would just give us your name and your address so we know who it is that's speaking when we get to record the a...make a record of the tape...and with that there are no more ground rules...there's no time limits on how long you can talk, or whatever, nor are you limited to one time at the microphone if you think of another question later on...you're welcome to step up and...hit us with it. We will...we have the option of answering questions on the spot or commenting if we feel that we want to on anything...we are not obliged to do that at the public hearing. We will very often...or the applicant is free to do that also, if they choose to, but again they're under no obligation to do that. Our purpose here is to hear you...to hear any comments that you have, any questions that you might have, any concerns with respect to your own properties, or whatever, and then to make the best use of that information that we can. So with that I'll ask...Mr. Amsler, are you making the presentation?

MR. AMSLER: Yes Sir.

CHAIRMAN HASBROUCK: Thank you.

MR. AMSLER: Are these alive? [REFERRING TO THE MICROPHONES]. Hi, I am Duwey Amsler. I am proposing a one-lot subdivision on a parcel of land I own on Blessing Road and Mosall Drive. The purpose of the subdivision is to provide a location for my daughter and son-in-law to build their dream house. The lot is about 2.65 acres and the dwelling will be approximately 220 feet off of Mosall Drive behind a line of trees. There will necessarily be some trees removed for driveway and utilities but beyond that the existing trees will remain. A relatively small scope project and that's all I have to say, I guess.

JEFFREY LIPNICKY: Mr. Amsler, if you would just indicate, perhaps, the overall acreage of the parcel out of which you are taking one lot out of.

MR. AMSLER: Sure. The...the overall parcel as it stands now is approximately 47 acres. If you take off 2.65 you go down in the range of 44 and change.

JEFFREY LIPNICKY: Thank you.

CHAIRMAN HASBROUCK: Okay. Does the Board have any questions at this point? If not, then I'll open the floor for any public comment or questions and anyone who is ready to be first...the mics are yours. Don't be bashful.

RICHARD DUBIN: My name is Richard Dubin, I am at 35 Mosall Drive and my concerns are what it is that will be built there and what is the look of the property...the home and that it will be keeping with the same integrity of the neighborhood, currently.

Four families were directly affected by the construction of a 43 foot pole barn that we believe is in violation of the zoning regulations for this community and our...we've spoken with a...several realtors and as a result of a...the way our home views this pole barn, the property values are consequently decreased. This...so this...so we want to be sure that what is, in fact, going to be built at this location, and that there will be certain covenants and certain requirements that are met in accordance with the neighborhood for which it will belong.

CHAIRMAN HASBROUCK: Okay. Thank you. Mr. Amsler, do you want to respond to that at all at this point?

MR. AMSLER: I have depictions of the proposed home here for anyone inspection. [STATED AS HE HANDED A PICTURE OF THE HOME TO ONE OF THE MEMBERS OF THE AUDIENCE].

JACQUELINE WATSKY: My name is Jacquelyn Watsky and I live at 31 Mosall Drive and we too thought that we put up our dream house until the Amsler's decided to place a pole barn directly opposite our house. You know it's a very sad state of affairs when you believe that you live in a Town that has laws and codes that apply to all of the residents and taxpayers of the Town. And when you are impacted by a structure that does not belong in a residential zone...in any way shape or form...who's roof is a glaring white aluminum metal that shines into the front of every single window. When you have approached the Town on numerous occasions and asked, what can you do for the other taxpayers who are being directly impacted by this structure? And you get told things like...well, why don't you wait and see what it looks like when it goes up. When you call the Town Supervisor and ask for a hearing and you are told...you can't have a hearing. And ask, why? You're told because Mr. Amsler can build anything he wants on his property. When pointed to the Zoning Laws and Codes you say...well, what about the codes? It's his property. He could put whatever he wants up there. "You can't have a hearing". This a direct quote in a conversation that I had on May 20th with Sheila Fuller, okay. When pushed further on this issue I was told that this was...if I went to a Town Board meeting that this was a public hearing and I said so what's the problem with that? She said to me, "This can cause problems for you". When pushed as to what problems this could cause, she then told me that.... "Just think about it, I am sure you'll figure it out". Well, I haven't figured it out because I still am naive enough to believe that the Town represents everyone and the reason that I'm here tonight is because I would like to trust the Town...I would like to trust the plans...but you know what, we've been burned. And we can't have that again...we really can't. We have tried to make amends, we spoke to the Highway Department about putting trees, at our own expense, to buffer this structure from us and we were told that it was a liability for the Town and we couldn't do it. There is no way shape or form that the Town has represented us. So we come here, rather skeptical tonight to believe that this is a simple project of a dream house. Well, we put up a dream house and our dream house has turned into much less than that. And it has turned into something frustrating and it's turned into no...no consideration from the Town as to our point of view no matter how many people we spoke to, no matter what we said. I asked Kevin Shea to show me another pole barn in a residential area in all of

Bethlehem. An aluminum pole barn, the permit states that the structure is wood. The only wood on this thing is the internal posts that hold up the aluminum. If I can have a moment? [MRS. WATSKY STEPPED AWAY FROM THE MICROPHONE AND RETURNED WITH PHOTOGRAPHS OF THE AMSLER PROPERTY]. You know, this structure is not supposed to have any impact on us - this is what we see from all of our front windows. This is from the inside of the house, in a picture window, that perfectly frames this structure. All we were asking for is trees and not a white aluminum roof that in the summertime, especially, is blinding. This is a picture on an overcast day. This thing glows at night on the roof. So, to us, this is not a simple approval of a wonderful house. Yes, I am sure it's gonna be gorgeous, it's buffered behind trees, it doesn't look at this [STATED AS SHE POINTED TO THE PICTURE IN HER HAND]. And it seems that no matter which way we turn, we...we get stonewalled. And so, I think that we as residents need some resolution here as to exactly what's gonna happen. What's gonna happen in front of those trees? What if they decide to put another one of these structures up? There's already one. This is in violation of every town code, even I who know nothing, can read through the code and pick out the statements in there that this is in violation of. And so, we are very skeptical about this project. We certainly wish his daughter and son-in-law no ill-will but how can we come to this with open minds and say go ahead build what you want...who knows what will be up there. Thank you.

CHAIRMAN HASBROUCK: Thank you Mam. Other people?

PATRICK BENDER: Hi, I'm...I'm Pat Bender...I'm at 7 Mosall Drive and just for the record my questions to a...to echo Jackie's...just...I want to make sure that the plans for the property do remain in tact. The home looks like a beautiful plan. It looks...you know...it looks great on paper...but there's a tree line there that's a right across the street from my house and I want to make sure that the integrity of the property is maintained.

CHAIRMAN HASBROUCK: Okay. Thank you. Anyone else?

WILLIAM SOLIS: Good evening, I'm Bill Solis. I'm...I live at 11 Mosall Drive and...and I would like to echo the comments that Mr. Bender made at Number 7. Thank you.

CHAIRMAN HASBROUCK: Okay. Thank you. Anyone else?

MELISSA DUBIN: Hi. My name is Melissa Dubin. I live at 35 Mosall Drive and my concerns are that there may possibly be some kind of farming or additional pumpkin sales going on down there, creating more traffic through the neighborhood. We do live on a semi-cul-de-sac and because of Mr. Amsler's pumpkins we get a lot of traffic coming through, especially in the fall, and you know, I do have children, and I do have to make sure that the cars that turn around don't hit my kids and I am concerned about the additional traffic...if they plan on doing farming down there or whatever produce/vegetables they plan on selling down there I'd like to know about it. Thank you.

CHAIRMAN HASBROUCK: Okay. Thank you. Mam, could you give me your last name again, cause I think I had..... is it Dubin?

MELISSA DUBIN: Dubin. D.U.B.I.N.

CHAIRMAN HASBROUCK: B.I.N., and that's the same property as the first spokesman, right?

MELISSA DUBIN: Right.

CHAIRMAN HASBROUCK: I thought you said Dugan before...I had your name wrong. Thank you. Anyone else?

JAY WATSKY: Jay Watsky from 31 Mosall Drive. And I...I share the concerns of a...others on Mosall Drive regarding the potential impact of a...the new proposal and a...I guess I would a...add some comments that I've had in conversation with a...Mr. Amsler with regard to trying to find a resolution to this and that is...that...he...and he may comment himself this evening on this, but a he...he will I believe, readily admit that our sense of aesthetics is far different, so that a...to a...do a...the structure that he put up last year ...a is as attractive as it is utilitarian to him and so with a...a difference in a sense of aesthetics we have some concerns about what the subsequent structure might look like and what other accessory structures might be added to the property. Thanks.

CHAIRMAN HASBROUCK: Thank you. Anyone else?

DAWN AMSLER-NUNZIATO: Dawn Amsler-Nunziato and I'm hopefully going to be living on the property next year. I think we have passed around the picture. Has everyone had a chance to see it?

RESPONSE HEARD FROM VARIOUS MEMBERS OF THE AUDIENCE: No.

[MRS. AMSLER-NUNZIATO STEPS AWAY FROM THE MICROPHONE AND GIVES A PICTURE OF THE HOME TO ANOTHER MEMBRE OF THE AUDIENCE].

DAWN AMSLER-NUNZIATO: And I just wanted to alleviate any concerns that may exist as to future plans for the property, which we hope to own. It's going to be a residence for my husband, myself and our daughter. It'll be behind the tree line because we would like privacy. And we have no plans to sell anything or produce or...we plan to keep everything, the integrity in tact as it is, and would like to have the property remain farmland in the front as it is.

CHAIRMAN HASBROUCK: Okay. Thank you. Anyone else? Sure [STATED AS HE NODDED TO MRS. WATSKY].

JACQUELINE WATSKY: You know it's...it's kind of interesting in hearing this about the discussion and comment by both Mr. Amsler and his daughter about the need for trees and privacy. We offered to plant 20 to 30 foot tall...evergreen trees at our own expense...the, the, the...the...along with the Dubins, okay...and...to act as a buffer between what we're looking at and our property. And we were told that it would breach the security of this pole barn. We were told that it would be difficult to mow around and it is just baffling to me that we could keep hearing about this wonderful row of trees and the purpose of this row of trees and yet this is one of the things that we have attempted to reach out in terms of solving...of problem solving... amongst neighbors in a neighborhood which has been flatly turned down and the need for it is not even getting through. So, I find this a mysterious statement in light of others requests for privacy and to look at something other than a structure like this.

CHAIRMAN HASBROUCK: Thank you. Anyone else. Sure.

RICHARD DUBIN: Yeah, I also...Richard Dubin here. I also echo, you know, Jackie's comments and my question is how come we're notified about this building but we're not notified about the other, nor do we have an opportunity for a public hearing when it came time to building that structure. And when we began to complain, early on, during the construction phase we were flatly denied any kind of...we were not...it was not...the, the...the Board was not receptive...not the Board...but Sheila Fuller and the individuals we spoke with at the Town were unreceptive to our requests for meetings. And that's a direct question...I...I'd just like to know how that's...

CHAIRMAN HASBROUCK: Okay.

RICHARD DUBIN: that's handled and why were we not notified?

CHAIRMAN HASBROUCK: That's...that's a very good question. And I think that's a good point here for me to try to give you some information which I think will be helpful to all of you...it's not necessarily gonna solve your problem, and I hope it doesn't sound like more stonewalling...but...but it's important that you understand what the Planning Board is and what we do and then what the obligations, or responsibilities of certain other branches of the Town are. I'm gonna make an assumption here but I think it's a valid one, from everything that I know, I'm assuming that the barn that Mr. Amsler built was built on his own building lot...in other words, on the same lot where his house is. And therefore, there was no need for that to come to the Planning Board because it doesn't fall within the jurisdiction of the Planning Board to rule on things like that. We have very limited responsibilities under the law. One is to look at subdivisions...if you're breaking out a piece of land or taking a parcel and splitting it into two or more parcels...what's called a subdivision...that's our responsibility and that requires a public hearing under the law. That's why we're all here tonight, okay...because here he's asking to split another lot out and sell it as a separate parcel. That deed will be recorded separately as a different ownership and, therefore, the Planning Board looks at that and our responsibility is more or less singular, okay...under the law, okay. Our responsibility is to determine whether or not that building lot as proposed would satisfy all of the Town's regulations in the

sense that it would be a useable building lot where somebody could build a house on it and satisfy all the code requirements and so forth in the Town. That's our responsibility. Once that subdivision is done, then it falls on other departments of the Town to a...determine what, you know, to look at...what gets built there. Now even at that point, it is...the Town has very limited ability to control in any absolute way exactly what a house looks like, or what size it is, or whatever. We determine that a lot is a build-able lot...it's useable under our Town regulations and the owner is then able to build, within reason, pretty much anything they want to there as long as that building satisfies the code. We don't say that a, you know, a building has to be a certain size, or a certain architecture, or a certain orientation, or whatever, as long as it satisfies the code. All Mr. Amsler had to do, presumably, to build the barn that is now the concern of the neighborhood, is to come to the Building Department with a Building Permit Application and get that permit and then it's up to them, basically, to work out, you know, the location and all the other details there. So, again, I don't want to sound like I'm stonewalling but the problem that you're looking at really was not something that was a function of this Board because that was not our responsibility in the first place. That project never came to us...nor should it have under the law. And I explain that only to kind of differentiate between our responsibilities and responsibilities of other organizations. That's not to say that we can't...that we wouldn't...if we were in a situation like that...look at the situation and try to find some resolution, which would be acceptable to both you and the Amslers. Certainly, I think the Town would try to do that...and I understand your concerns, if that's not happening, okay. But I just wanted to explain to you what our responsibility is and assure you that what has happened there had nothing to do with this Board, nor can we do anything directly to cure that problem for you.

RICHARD DUBIN - FROM HIS SEAT: Is there any jurisdiction here over the code of the zoning laws...that may have been broken with this structure. Do you have any...

CHAIRMAN HASBROUCK: Not with this board. No.

MELISSA DUBIN - FROM HER SEAT: Well, what would you do?

CHAIRMAN HASBROUCK: Well, I guess you've talked with Mr. Shea. Generally speaking the Building Department is the one that...kind of supervises and oversees, you know, what's going on to make sure that they've satisfied everything that the permit requires. And I don't know, I can't speak to that. Whether you may have thought it was supposed to be wood...it turns out to be metal...whether that's a requirement, quite frankly I don't know. I don't know Jeff, whether you have any other thoughts on that matter or not but...

JEFFREY LIPNICKY: To my knowledge there's nothing in the code that would restrict the construction of a pole barn in a residential area provided it met all the zoning code requirements...

CHAIRMAN HASBROUCK: Can everybody hear Jeff?

JEFFREY LIPNICKY: with respect to lot occupancy, side yard setbacks, etc. etc.

RICHARD DUBIN - FROM HIS SEAT: Which...and if it doesn't...those setbacks...

CHAIRMAN HASBROUCK: Are picking up on that? [QUESTION DIRECTED TO ACTING SECRETARY] Hang...hang on just a second. Could you...you're not picking up the loud speaker because that mic doesn't go to the overheads Jeff, it just goes to the tapes.

JEFFREY LIPNICKY: Okay. Sorry.

CHAIRMAN HASBROUCK: Let Deb give you one then you can...

JEFFREY LIPNICKY: Okay.

CHAIRMAN HASBROUCK: There you go.

JEFFREY LIPNICKY: Basically what I said is there's nothing...to my knowledge, there's nothing in the zoning code which would prevent the construction of a pole barn in a residential area provided that pole barn met certain set back requirements, lot occupancy requirements, etc., and those requirements are stated in the a...the zoning code. Now the other issue is the use of the pole barn and what it's being utilized for which could be a separate...a separate issue, okay. Generally speaking, there's a very...I guess the best way to describe it is, an open ended thing here that we call an accessory use, okay, and there's no specific definition of what an accessory use is within the code, okay. An accessory use is...is...is typically defined as something that is customarily incident to the primary use of the property, which...the meaning is certainly not very definitive there. The other problem that one would have in trying to do anything is that generally the courts have always found that when there's ambiguity in the code the ambiguity is almost always determined in favor of the applicant...alright. So we have an...an ambiguous code, okay, with an ambiguous definition of what an accessory use is. We have a structure that's not prohibited anywhere in the code, and again...I'm not sufficiently familiar with the lot to say whether it meets all of the set back and other requirements...

RICHARD DUBIN - FROM HIS SEAT: If it's not...if the set backs are not met...then...then what is the next...

JEFFREY LIPNICKY: Set back requirements are very minimal for accessory structures. I believe in an A District, if my recollection suits me right, is 2 feet from the property line.

MELISSA DUBIN - FROM HER SEAT: No. It's not.

RICHARD DUBIN - FROM HIS SEAT: 300 feet off the center of the road.

JEFFREY LIPNICKY: No. That's totally incorrect. The set back for an accessory use, I believe, is 2 feet. That's from the side yard...okay...I'm gonna have to look at that...you might be right...it might be further from...from that street right-of-way.

RICHARD DUBIN - FROM HIS SEAT: 300 on the center...center of the road.

JEFFREY LIPNICKY: There's...there's no way it's 300.

MELISSA DUBIN - FROM HER SEAT. Well, it's on your web site. I mean we downloaded the information of the codes from your web site....

JEFFREY LIPNICKY: Look, I'm not here to sit here and get in an argument of what it is...okay...because off the top of my head I don't know what that precise number is. But that's generally the...you know...the story there. In terms of who interprets the code...the code charges the Building Inspector, Kevin Shea, with interpretation of the code. So Kevin Shea is the person who is in charge by the Zoning Code with its interpretation. So, he is the one who determines whether something meets, or does not meet, the code.

RICHARD DUBIN - FROM HIS SEAT: Okay, and if he made a mistake, where does it go from there?

JEFFREY LIPNICKY: If he made a mistake? Where does it go from there? I...I mean...I can't advise you what to do.

RICHARD DUBIN - FROM HIS SEAT: Do you go to the County?

MELISSA DUBIN - FROM HER SEAT: Well, I mean you go to the Town because you don't know what to do...and then the Town misleads you...so what do you do?

JEFFREY LIPNICKY: It's not my place to say.

BRIAN COLLIER: Hey Jeff.

JEFFREY LIPNICKY: Yeah.

BRIAN COLLIER: What's the Zoning out there? Do you...is it double A or triple A?

JEFFREY LIPNICKY: That, I believe, is Residence A.

RICHARD DUBIN - FROM HIS SEAT: Residential A.

BRIAN COLLIER: A...accessory building shall not be nearer any sideline than 2 feet, so...

JEFFREY LIPNICKY: That...that sideline though, there should be a...there's something in there dealing with set back in the front yard too but if you hold on a second I'll find it.

JAY WATSKY: Jay Watsky from 31. I'm not sure it's pertinent or relevant to argue the finer points of the zoning with regard to this accessory structure in front of this Board. You know, I think you got the picture that there are people who are not pleased that the structure is present, and there may some issues with regard to whether it meets zoning requirements, or not, but that's...I think...you know, whether it meets zoning requirements or not is not pertinent to your discussion here with regard to the other project.

BRIAN COLLIER: Agreed.

CHAIRMAN HASBROUCK: I'll give Jeff a minute to look for the numbers he's seeking there. Let me make a couple of other comments while he's doing that. Assuming that the setbacks are proper, and I'm only assuming that...I don't know that to be a fact, but assuming that the building that sits on the property does in fact satisfy whatever setback requirements are in place...then, I think, what you're left...what you're faced with here...is a discussion between you and Mr. Amsler with respect to what can be done, if anything. I don't know if the Town has any legitimate role in trying to resolve that otherwise...unless there is some violation of the code. You understand?

RICHARD DUBIN - FROM HIS SEAT: Sure.

CHAIRMAN HASBROUCK: On the other hand, if you think...if...if there's any evidence at all, that perhaps a mistake was made and that something was misinterpreted or miss-measured, or whatever, then by all means go to Mr. Shea and point that out and let him look at it from there. Maybe you've already done that, I don't know....

RESPONSES HEARD FROM VARIOUS MEMBERS OF THE AUDIENCE: Right. That's right. Yeah we have...We've done...

CHAIRMAN HASBROUCK: but that's a...but that would be the avenue, okay. I'll give Jeff a minute to look up the...it's a little bit different situation there because of the way the street lays out too where you've got all the homes on one side of the street and open land on the other...there's not too many developments where that happens. And we were aware of that, when that development was approved several years back, but, you know, you have to deal with what's proposed when you get a project in front of you. And obviously you folks have some very nice homes as a result of that plan.

JACQUELINE WATSKY - FROM HER SEAT: Not anymore.

CHAIRMAN HASBROUCK: Well, you still have nice homes...your view is interrupted, certainly...maybe, if that's...that's your concern but...you know. [LONG PAUSE] Does anyone have any other questions, by the way...while Jeff is looking for the...

MELISSA DUBIN: Hi, I'm Melissa Dubin from 35 Mosall. We're just concerned as to if their covenants in their deed is gonna be the same as ours in the neighborhood. There are certain things that we can or cannot have in our neighborhood, like RV's, you know, things like that. Are they gonna be part of the neighborhood and subjected to all the things that we're subjected to or they're just a different entity?

CHAIRMAN HASBROUCK: I don't remember what the conditions were exactly with your project and I don't know off hand what...exactly what...would apply and would not apply here...off the top of my head. Again, staff may be able to help you with that question. [LONG PAUSE]

JEFFREY LIPNICKY: There...there is a section in the code...Section 128-71, okay...which indicates that an "accessory building shall in no case be nearer the principal street line than 100 feet in a Residence AAA District, 85 feet in Residence AA District, 70 feet in a Residence A District and AB District, 55 feet," etc., etc. So what the code says here, okay, and again, here is the key phrase "any accessory building shall in no case be nearer the principal street line"... principal street line...than 100 feet in a residence...not 100 feet...70 feet in a Residence A District, okay. Now I believe that Mr. Amsler owns a corner lot, is that correct?

RESPONSES HEARD FROM VARIOUS MEMBERS OF THE AUDIENCE: Yes. Yeah. Yeah.

JEFFREY LIPNICKY: The problem becomes here of what is meant by the term principal street line, okay. In the zoning code, the zoning code differentiates where there's two frontages, okay, for corner lots. One frontage is required to meet the front yard setback requirements of the code, okay, in terms of principal structures, such as a house...and there's also a set of second...a second set of setback requirements to that second street, okay. So for example, in a Residence A District, if you're on a corner lot and you're building a single family home you have to be 25 feet back from the...the property line on one of the frontages, okay, and on the other frontage you have to be 20 feet back from the property line, alright. So the code itself distinguishes between the two types of frontages for a corner lot. The question becomes again, what is meant by the principal street line? Are we referring to the street line from which the 25 foot setback is measured or are we referring to the street line from which the 20 foot setback is measured? Now as far as I know there's no definition in the code for principal street line so I don't have an answer because I don't know how Kevin has interpreted this, but what I assume how he has interpreted it is that principal street line relates to Blessing Road and that the 70 foot requirement, or 70 foot setback, has to be from Blessing Road and not from the second street. Now I can't say that with certainty because I haven't discussed this with Kevin to know what his thinking is, or was, on it but that is one possible interpretation of...of why you got the response you got.

CHAIRMAN HASBROUCK: Mr. Amsler let me ask a question. Was your house there before Stafford's Crossing was constructed or have you built there since that time?

MR. AMSLER: Our house has been there approximately...I'm sorry...our house has been there since 1975.

CHAIRMAN HASBROUCK: Okay.

MR. AMSLER: so it was before....

CHAIRMAN HASBROUCK: So at the time your house was built Blessing Road was the only street there.

MR. AMSLER: That's correct.

CHAIRMAN HASBROUCK: You didn't have a corner lot. Okay.

MR. AMSLER: That's correct.

CHAIRMAN HASBROUCK: I thought that was true but I want...wanted to make sure, okay. Okay again, I...I don't know that we can do anything here to help you resolve the problem except to explain, as I have tried to, kind of how we operate in terms of who is responsible for what...decision making and so forth. Again, as I understand the situation, this board has absolutely no jurisdiction whatsoever with respect to what happens on Mr. Amsler's property. We do have jurisdiction in determining whether or not the lot that he is asking to subdivide would constitute a build-able lot under the law and that's what our decision will be made on. Mam.

JACQUELINE WATSKY: Jacqueline Watsky, 31 Mosall. Does the fact that this pole barn is now in existence set any sort of precedent for other structures such as the...to be erected? And, is it possible then that on this subdivision, let's say they need some place to store the farm equipment...another one of these can go up...because it's already there...they're blocked from it by trees...and here goes another one. You know, the frustrating thing here is we went through all of those avenues...and we were stonewalled...and we weren't heard. And I know you keep saying that you don't want this to sound like stonewalling but you're sending us back to the same people that have not been receptive from the beginning...and no matter what solution we've tried to come up with...that has been squelched too...and to hear this all over again is very disheartening. We had a 24 percent tax increase and our property value has gone down because of this structure and nobody cares. That's a sad thing for a Town government.

CHAIRMAN HASBROUCK: Thank you. I...I certainly understand your frustration...that's been made clear by everyone who has spoken here tonight. And please, do not go away thinking that we don't care. What I'm telling you is...that this Board has no jurisdiction with respect to this question under the law. I have no way to help you resolve the problem so far as I know... okay.

JACQUELINE WATSKY - FROM HER SEAT: I understand that....

CHAIRMAN HASBROUCK: So again, I said it in the beginning...

JACQUELINE WATSKY - FROM HER SEAT: but....

CHAIRMAN HASBROUCK: it may sound like stonewalling...

JACQUELINE WATSKY - FROM HER SEAT: Right.

CHAIRMAN HASBROUCK: and I understand that because of your frustration.

JACQUELINE WATSKY - FROM HER SEAT: and I...I understand that...but the only solution...or the only place you are sending us...is back to the same place we've been. Back to, you know, being told we can't have...can't...have a hearing.

JEFFREY LIPNICKY: There's...there's nothing under the law that provides for a hearing.

CHAIRMAN HASBROUCK: That's true.

JEFFREY LIPNICKY: There's only...the only person that...that you can deal with...the only person that has jurisdiction in this matter is one person...and that's Kevin Shea. This Board has no jurisdiction, I have no jurisdiction, we can't do any more than you can do about it, okay. Kevin Shea is the person with jurisdiction. He's the Building Inspector.

RICHARD DUBIN - FROM HIS SEAT: Yeah, but there's got to be somebody that...who has jurisdiction over him.

JEFFREY LIPNICKY: Not in this matter...under the code Kevin Shea has the jurisdiction.

RESPONSES HEARD FROM VARIOUS MEMBERS OF THE AUDIENCE:  
[INAUDIBLE]

CHAIRMAN HASBROUCK: And that again is a matter of law. I mean it's not something where it's a...you know...a judgment made on a day-to-day basis, you know. See I...I'm not in a position to determine here, nor do I need to, but I'm not in a...a position to determine whether or not there's any violation under the law whatsoever. Certainly I...I understand as I said...I understand your concerns, in terms of what you're looking at out your front windows...that's very understandable. But that, by itself, does not suggest to me, or demonstrate to me, or anyone else that, in fact, there's a violation of the law or the regulations, or the zoning code, or anything else...there may be and there may not be, but that by itself doesn't...doesn't make that point. But again, I have to go back to the only thing that I can tell you is...and that is that this Board has no jurisdiction to...to handle that situation. The only thing we can do that hopefully will...will be of

some value to you is to look at the application that's before us and rule on that in a reasonable way in terms of whether that lot, as proposed, becomes a build-able lot under the law...and that we will try to do.

RICHARD DUBIN - FROM HIS SEAT: Do we as residents on that Road that this...obviously we were notified of this hearing...do we have any...

CHAIRMAN HASBROUCK: I'm sorry...can you use the mic, I...

RICHARD DUBIN: do we have any say so as to whether or not this...I mean...or we just sit here and voice our concerns and then it gets approved anyway...and whatever happens, happens. I mean do we have any....

CHAIRMAN HASBROUCK: The subdivision itself you mean?

RICHARD DUBIN: Yes.

CHAIRMAN HASBROUCK: That's the whole purpose of the public hearing basically.

RICHARD DUBIN: Okay.

CHAIRMAN HASBROUCK: But....

RICHARD DUBIN: So I mean, is there a way where...yeah sure...we're not trying to prevent his daughter and son-in-law from building their dream home....

CHAIRMAN HASBROUCK: Sure.

RICHARD DUBIN: but at the same time we would like this issue, that we have a major concern about to be resolved before we...you know, we are in favor of another project on his property.

CHAIRMAN HASBROUCK: Yeah. My...my a...our...our legal counsel isn't here tonight but I'm gonna stick my neck out a little ways and say to you that I don't think that we can tie approval of this subdivision application to any other thing that may be going on his property...I could be wrong there but I don't think we can...if that's your question. And again, as I said at the beginning, there are...there are only certain things that we can do in terms of looking at this subdivision application, and that basically is to see whether or not it is...it...it's...a build-able lot in the sense that it would satisfy all the zoning regulations, all the requirements of Town Law and everything with respect to...you know...storm drainage or whatever else might apply to a lot to make sure that it's gonna be able to be used, and house built on it in a way that would be safe and...you know...accessible...and you know...things like that. We can't dictate architecture. We can dictate the size of the house or the way it faces, or...you know...the color of the roof for that matter, okay. So, I know that's frustrating but that's...that's the way it is.

RICHARD DUBIN - FROM HIS SEAT: Then I wonder why are we here then? If we don't have any...

CHAIRMAN HASBROUCK: Well, you're here because the law allows you an opportunity to speak and express your concerns with respect to the subdivision. That's what you're doing. That's what we asked you to come for and I'm glad you're here. So, that's why you're here. And if something comes out of that concern, that is something this Board can address, then we will do that.... that's our obligation.

JEFFREY LIPNICKY: The...the purpose of this hearing is...is really to focus on the subdivision...this is what's before the Board...this subdivision. The purpose of the hearing is to take comments on this subdivision application.

CHAIRMAN HASBROUCK: That's right.

JEFFREY LIPNICKY: Other factors, such as Mr. Amsler's pole barn are really irrelevant to this particular application. They...you know...they just don't relate to this application.

CHAIRMAN HASBROUCK: That's correct and again, it is not that we don't care about your situation, we certainly do, but...

PARKER MATHUSA: May I just ask one question on a point that was made...maybe for Jeff, one of the people mentioned that they wanted to know if this house on this subdivision was going to be subject to some of the...I'll use the word...foot notes...that they're related to in terms of RV's and so on and so forth.

CHAIRMAN HASBROUCK: Covenants.

PARKER MATHUSA: The question is...is there sever ability here, because one's on one side of the street and one's on the other or the covenants for that development was in...on one form and this is separate. I was just interested in that particular comment in terms of that having any relevance or balance to what we're looking at here.

JEFFREY LIPNICKY: Not...not really...I...I mean, historically this Board and the Town have not required any type of particular design covenants in subdivision approvals...except, okay, the only types of things that we've gotten into, are for example, where there are landslide prone slopes in a subdivision, okay. We have in the past required deed notices in deeds, okay. In some instances we have required restrictions on construction in those areas...if for lack of a better term, forever wild on those types of areas. But the Board has to always bear in mind there has to be relationship to the condition that you're imposing, okay...and a problem that exists out there. You cannot arbitrarily impose a condition on somebody unless there is good reason to do so.

PARKER MATHUSA: But the...the...theoretically then...without having any facts, the association of those who live on the one side of the street have certain covenants of some

sorts... let's say you can't store an RV...equivalent types of things...that was a decision that was made by the developer at that point?

JEFFREY LIPNICKY: If...if such covenants exist, that would be correct.

PARKER MATHUSA: And...but this is a separate development so that there's no linkage between the two even though they are quote, un-quote, "across the street" from one another.

JEFFREY LIPNICKY: That would be correct.

RICHARD DUBIN: But...but this is not necessarily a second a development. This is a driveway up to one house on a piece of property. It's a driveway off the main road, just like we have a driveway off the main road.

CHAIRMAN HASBROUCK: Yeah...under the...under the Law and Regulations of the Town though it is a subdivision in every sense the same as the subdivision that was called Staffords Crossing...and I think what happened there, as Parker suggested...the builder...the owner there who developed Staffords Crossing...do you have a Homeowner's Association there...I don't know if you do or not?

RESPONSE HEARD FROM VARIOUS MEMBERS OF THE AUDIENCE: No.

CHAIRMAN HASBROUCK: Well, whatever, they apparently elected to put certain restrictions in your deeds that would limit you from doing certain things on those lots...and that's not a bad idea...I mean it adds to the attractiveness of the neighborhood...you know...it's not nice to see a whole lot of boats in the front lawn and things like that. So, that's good. But that was not the Town that did that, that was the...the builder who built that particular project who chose to do that for his own marketing purposes I assume...alright. That's not something the Town imposed...

RICHARD DUBIN: So then...

CHAIRMAN HASBROUCK: through our codes or regulations.

RICHARD DUBIN: this home would not be subject to those same covenants?

CHAIRMAN HASBROUCK: That's up to development of this...the developer of this lot. It's not up to the Town. It is up to the Town to make sure that the codes are met...the laws and regulations and the codes that apply to that lot. That's all. It's not up to us to add additional restrictions beyond that. If the developer chooses to do that, as apparently they did with Staffords Crossing, they're allowed to do that.

PARKER MATHUSA: Let me ask another question related....

JEFFREY LIPNICKY: The Board does...the Board does have some ability to impose conditions...I...I don't want...

CHAIRMAN HASBROUCK: Well, yeah.

JEFFREY LIPNICKY: to get away from...from that, okay.

CHAIRMAN HASBROUCK: But, very limited.

JEFFREY LIPNICKY: But, I would caution that there has to be a very clear reason to...

CHAIRMAN HASBROUCK: It's got to be justified.

JEFFREY LIPNICKY: impose those conditions.

CHAIRMAN HASBROUCK: It's got to go beyond just the fact that we like the idea.

JEFFREY LIPNICKY: Right.

PARKER MATHUSA: Let me ask a question about the trees. Apparently...between the...there's not enough room to put trees between the barn and the road I think...in terms of visual...visual...

RICHARD DUBIN FROM HIS SEAT: No. There's plenty of room.

PARKER MATHUSA: There's plenty of room to do that.

RICHARD DUBIN - FROM HIS SEAT: Sure.

PARKER MATHUSA: Okay. So theoretically, if Mr. Amsler wanted to put trees there...let's say at your expense...theoretically he could do that.

RESPONSES HEARD FROM VARIOUS MEMBERS OF THE AUDIENCE: Sure. Yeah. Absolutely!

PARKER MATHUSA: So then that's a separate issue from the item on the table today.

RESPONSE HEARD FROM A MEMBER OF THE AUDIENCE: Yeah.

CHAIRMAN HASBROUCK: Yes. That's true.

KATHERINE MCCARTHY: Do your properties have trees? Could you put the trees on your property to...

MELISSA DUBIN - FROM HER SEAT: We're in a pie shape because we're on a cul-de-sac, so we have very narrow frontage. I mean, it would look ridiculous and we

wouldn't even have enough space, cause we're on a pie, to stick anything in front so that it would help.

PARKER MATHUSA: Well, the reason...the point that I'm making is...is that we've had a number of cases before us where we have asked people to put up trees as part of development so people who have existing houses don't look at new buildings....

JACQUELINE WATSKY - FROM HER SEAT: Sure. Yeah.

PARKER MATHUSA: and I was just wondering why that didn't happen...while it didn't come to this Board...why that was not asked at another time. That was my point.

RICHARD DUBIN: We asked him during the construction phase. We did request a meeting during that point...you know...well, before the building was even completed...and after it was completed...and months after that...and we have continually run down this road. This is the first opportunity we've had to be in front of the Board...the Town Board to present this...this issue. And all we've asked is exactly what your saying...put up trees so that we don't have to look at the broad side of this unsightly structure. That's...that's all we're asking. I mean this is not...you know...

JEFFREY LIPNICKY: Again I...I just have to clarify something...the Town...the Town does not have any authority to require Mr. Amsler to put up any trees just as it has no authority to go on anybody's property here and require them to put up trees. We just don't have that authority.

PARKER MATHUSA: In this particular instance.

JEFFREY LIPNICKY: That's correct because there's no...there is...this...no...to go back to what Mr. Shea's...or the Building Inspector's role is...Mr. Shea's role is ministerial in nature, okay. He really doesn't have a lot of flexibility to impose his judgments. His role is simply to read and interpret the code and to require what the code has within it, okay. This particular Board has a little more authority than that, okay. It's a decision making body...it goes beyond just being ministerial, alright. It can impose conditions, etc., etc....provided those conditions are reasonable. But there is nobody in Town that can require Mr. Amsler to plant trees.

PARKER MATHUSA: At least at this time. May not even be before that.

JEFFREY LIPNICKY: In my view, not before.

JACQUELINE WATSKY: In the summer...this past summer, when the structure was going up, in addition to Kevin Shea we spoke...and...and Kevin Shea also put us in contact with Gregg, I don't know his last name.

JEFFREY LIPNICKY: Sagendorph.

CHAIRMAN HASBROUCK: Gregg Sagendorph.

JACQUELINE WATSKY: of the Highway Department

JEFFREY LIPNICKY: Sagendorph.

CHAIRMAN HASBROUCK: Gregg Sagendorph.

JACQUELINE WATSKY: Okay...and we...the...the...the...the thought was on the right-of-way to put a berm and trees. Trees we are willing...were willing...to pay for. Weeks dragged on and we were told...no, you can't put them in the right-of-way either. This is what I mean by, we're trying to find solutions, and no matter what we seem to come up with...and we're talking at our expense...we're talking thousands of dollars at our expense...that we're willing to put forth to solve this problem. All we're asking for is somebody on the other side to give a little. We were told...nope, trees can't go up on the right-of-way...it's a liability issue...can't do that. So that was another avenue we tried. Just to let you know for point of information.

CHAIRMAN HASBROUCK: Thanks. Let me...you made a comment before and I think you said something about first opportunity before the Town Board...I just want to make sure that everybody understands that we are not the Town Board we are the Town Planning Board...the Town Board and...I think you just misspoke there...

RICHARD DUBIN: Yeah. Yeah.

CHAIRMAN HASBROUCK: but I just wanted to make sure everybody understood that...the Town Board is a different body and their...their responsibilities, obviously, are much broader than ours...you know, okay. Thanks again. Sorry. Anyone else?

BRIAN COLLIER: I don't want to throw fuel on the fire, of course, because I appreciate what you're talking about with the impact the barn has caused on your formerly beautiful green view. It seems obvious to me though that at some time there is gonna be an opportunity for neighbors to respond on this specific issue, in terms of impact, because eventually I would think the remaining 46 acres is gonna be subdivided whether you want to think that or not. Eventually it is going to be subdivided and at that point that acreage, or that location of where that barn is...is going to be part of that subdivision so your comments will be directly...no, I shouldn't say the word irrelevant...would be very relevant to that subdivision that's going on. So, it might not happen as soon as you'd like it to happen but sooner or later you're gonna have an opportunity to weigh in on this specific issue.

DANIEL ODELL: Brian, I've got to say I disagree. I think that...that lot on which the barn appears is too small to be subdivided and would not be part of any future subdivision.

BRIAN COLLIER: So the barn is on the corner parcel.

DANIEL ODELL: The barn is on the original property. It's outside of the line of the current subdivision...

BRIAN COLLIER: Okay.

DANIEL ODELL: which we're considering tonight.

BRIAN COLLIER: Well, if that's the case, I stand corrected. I apologize for that.

MELISSA DUBIN: Sorry...I have to get up again.

CHAIRMAN HASBROUCK: No problem.

MELISSA DUBIN: I just want to leave here knowing what you are telling me is true. He basically can build what he wants to build as long as you guys feel that it's within certain codes. But he's not gonna be, or their daughter is not gonna be, under the same covenants as we are...they pretty much can kind of put up cloths lines, or RV's, or any kind of equipment or pole barns up there that they want to put up. And basically still I feel that we have no recourse. I'm not exactly sure why any of us were notified or brought here because it just sounds like no matter what valid reasons we have, to be suspicious of what's going on, because we've...we were never told about anything that was happening before. And when we look at the plans and their not what, you know...the pole barn is supposed to be wood...it's not wood. In dealing with Mr. Amsler he...in my opinion, you cannot relate to him. I don't know what to do to fix this problem. I'm concerned for the other people on Mosall because they're now gonna be impacted by something...you don't really know what because it's not built yet. And they're...they're not gonna be under the same covenants as we are. So basically we're here just to...so you let us know...and then there's nothing for us to do...or is there another hearing...or how does...I don't understand how this goes.

DANIEL ODELL: There are many times when the public comes to these hearings that issues arise that are within the jurisdiction of the Planning Board. For example, in the Town of Bethlehem there are lots of problems with surface water drainage runoff and many times when a development is being proposed the immediate neighbors already have concerns about how the water flows across their property into ditches and culverts, or sheeting across their lawns and in those cases the Planning Board can take steps to make sure that the developer does not do anything that makes the problem any worse than it is...and if at all possible can take steps to solve existing water drainage problems in the area. Likewise, when the public's notified about a subdivision, development issues about visibility from driveways to intersections and on the highways may come out. Neighbors may tell us about auto accidents and problems and the location of the driveway may be required to be moved by the Planning Board in order to place it in a safer location as far as leaving the property and coming on to the public highway. So often, when public hearings take place, neighbors come out and...and raise issues and things that need to be addressed. We've had public hearings where neighbors have stood up and said...well, I

have an easement across part of this subdivision...and that becomes an issue. So there are many issues that do come before the Planning Board that are within the Planning Board's jurisdiction. It's just that in this case, the matter...it happens to be in a lot that's outside of the subdivision and the situation that I hear in this room is such that, if I was in your shoes...and I placed myself in it to say what would I do if I was the neighbor...I would seek my own counsel to advise me, someone who reported to me and was responsible to me and not to someone else...and in terms of interpreting and explaining building codes and the other Town requirements which are very complicated and if you read the newspaper are subject to controversy many times. And not only is there a code itself to refer to but State Law that refers to the powers and duties of the Planning Board and other Town officials...and also there's case law where the courts have interpreted the codes and all of that is something that we, in the Planning Board, can't provide you with the kind of counsel that it seems to me I hear you asking for. And we're sorry about that, but that's the way it is.

BRIAN COLLIER: Dan when you were giving your examples I thought there was an even more specific relevant example. I heard Mr. Bender...I think it was...and Mr. Solis...talk about their desire to try to have the tree line in...in front of the proposed house maintained and then I also heard the applicant's daughter say...well, it's their intention to maintain those trees. That's a comment that is very relevant to what the Board does in our approval process and, you know, we...we...I won't...we won't say right now, how we'll word that, but it's very likely that we can pull that into the approval document so that those trees that the neighbors want to see saved and those trees that the applicant wants to see saved...we could actually attach to the approval document. Just as an example. So, these things are...are useful processes, I think, even though you are frustrated this evening.

CHAIRMAN HASBROUCK: Any other thoughts...questions? If not, let me thank all of you for coming tonight and for expressing your concerns. As we stated, it's unfortunate that your concerns here don't relate to this specific subdivision that we're talking about and, therefore, takes jurisdiction away from us in that sense...to whatever extent we would have had any. But I hope you get your...your situation resolved. As I said, unless there's something that you can point to Mr. Shea that suggests that there is, in fact, some violation, then he probably has no more jurisdiction to correct the situation, or make it any more, you know, acceptable for you than we do. But I hope that between you and Mr. Amsler...whatever, that somehow you can get it worked out to your satisfaction so that everybody's happy. We don't like to see unhappy people...and obviously there's unhappy people here tonight. So...and again...I...if a...if it sounds like we're stonewalling...to some extent I guess I can't help that...but I wanted to do whatever I could to explain to you the way the system works here and where we have jurisdiction and where we do not so that you'll understand that, at least in this situation, this Board does not have any way of...of curing your problem. But it's not that we don't care...trust me...it's not that we don't care. That could be my house, just like it could be yours. Okay. Any other questions? If not, then I'll ask for a motion to close the public hearing.

DANIEL ODELL: So moved.

HOWARD ENGEL: Second.

CHAIRMAN HASBROUCK: All in favor?

BOARD MEMBERS: Aye.

CHAIRMAN HASBROUCK: Opposed?

BOARD MEMBERS: No response.

CHAIRMAN HASBROUCK: Thanks again, very much folks. We have another public hearing if anyone wants to stay for that you are welcome to....obviously. Okay.

**The public hearing for the Amsler Subdivision closed at 8:32 p.m.**

Following the public hearing, the Board discussed whether or not to add the Amsler Subdivision to the agenda for possible action on the draft approval documents. It was decided that, due to the nature and extent of the comments received, the item would not be added to the evening's agenda.

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**PUBLIC HEARING - RDA ASSOCIATES SUBDIVISION**

The next item on the agenda was a public hearing for the RDA Associates Subdivision. The Chairman called the hearing to order at 8:35 p.m.

CHAIRMAN HASBROUCK: Okay, next up is the RDA Associates Subdivision...as differentiated from RDA Manor. And there's been some a...material flying back and forth on this one. And Mr. Silliman has been involved in reviewing some of the...a...a...documents to be developed for recording. You've all got copies of some of those anyway. I don't know if you got 'em all or not but...Mr. Califano you wanna to tell us where we are at this point in time?

ANTONIO CALIFANO: Sure. Just that my name is Tony Califano and I'm married to Donna Furlani who's family owned this property since the 1940's. It was a Furlani Lumber Mill over the years. Donna's father passed away in the late 60's and the Lumber Mill...basically went out of business...and basically it's been sitting with the family...in that time. Some years back, Donna's Grandmother donated some land, which is now the North Bethlehem Town Park. Some years back also, Donna's grandmother was nice enough to give each of her four grandchildren building lots, which...[REFERRING TO THE MAP] are on this property. My brother-in-law, Peter Furlani, two years back, built this duplex, which he has since sold and moved away. And basically the remaining three lots are owned by three cousins. My wife and I now have an interest to build over on the

property and we'll be utilizing a lot that's currently owned by one of Donna's cousins...who we are basically obtaining that lot from to build our home. That lot currently is a build-able lot with an access to Russell Road. However, due to our interest in possibly doing something more with the property at a later date, we requested to the Town to put our driveway in a location that would better suit the construction of our home and as a result it requires to have a two lot subdivision...that's why we're here tonight. Our current lot is approximately .66 acres and we are getting approximately .66 acres out of the 48 acres to attach to one another in order to put in our driveway and utilities. At this point that's what I have. I guess as an aside though...concerns regarding the legal language...I believe my attorney got all the language agreed to in terms of how property is flowing back and forth during this process and I believe that was acceptable to Keith. So the only thing I need now is my cousin to...sign the paperwork because unfortunately, she had a...my wife's cousin passed away...and so she was dealing with his estate and now is basically gonna be transferring her property to us and then that will then get filed as a deeded property for us. So I think that is what hasn't happened yet, but everything else has.

CHAIRMAN HASBROUCK: All right. Thanks Mr. Califano. Let me...

JEFFREY LIPNICKY: If I might just comment on that...

CHAIRMAN HASBROUCK: let me back up for just a minute Jeff, cause I forgot to ask for a motion to indent the public notice in the record.

PARKER MATHUSA: So moved.

KATHERINE MCCARTHY: Second.

CHAIRMAN HASBROUCK: All in favor?

BOARD MEMBERS: Aye.

CHAIRMAN HASBROUCK: Opposed?

BOARD MEMBERS: No response.

**Notice is hereby given that the Planning Board of the Town of Bethlehem, Albany**

**County,**

**New York, will hold a public hearing on Tuesday, July 1, 2003, at 7:45 p.m., at the Town Offices, 445 Delaware Ave., Delmar, New York, on the application of Antonio J. Califano,**

41 Barrington Court, Niskayuna, NY 12309 for approval of a one (1) lot subdivision located at 536 Russell Road, Albany, NY 12203, Albany Co., NY, as shown on map entitled: "SUBDIVISION MAP, FOR LANDS OF, RDA ASSOCIATES, INC., CONCEPT PLAN," Town of Bethlehem, Albany County, NY, dated May 20, 2003, revised June 18, 2003, and made by S.Y. Kim, LLS, Latham, NY.

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**For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.**

CHAIRMAN HASBROUCK: Thank you. Go ahead Jeff.

JEFFREY LIPNICKY: Yeah, I just...just to let the Board...I should start exercising I guess... [STATED AS HE WAS APPROACHING THE MICROPHONE]. Just to let the Board know I...I reviewed the...Keith had faxed me a copy of that...that language Tony and I didn't get a chance really to look at it today but I did speak to Keith...in terms of the...the language that your attorney had...had sent him with regard to the transfer of that lot back and forth. The main problem is...is the way it's written now it would transfer the lot back to RDA Associates at the time of subdivision which...

ANTONIO CALIFANO: or successors...

JEFFREY LIPNICKY: which would...yeah...which would put you right back in the situation you're at now which is that you don't have a...a...a fee simple access...okay...to...to Blessing Road. So the way it's really gonna have to work is that...the...that lot doesn't really get transferred back to RDA Associates...okay...what happens is we wind up with kind of a joint application between RDA Associates and...

ANTONIO CALIFANO: And me.

JEFFREY LIPNICKY: you and your wife...okay...and what happens is that when that strip is...is...is constructed as a Town Street...okay...at that point in time it gets transferred directly to the Town.

ANTONIO CALIFANO: Okay.

JEFFREY LIPNICKY: So that way you're never in a position of being in violation of the zoning code.

ANTONIO CALIFANO: Okay.

JEFFREY LIPNICKY: I...I...

ANTONIO CALIFANO: So...

JEFFREY LIPNICKY: I attempted to call your attorney this afternoon but he...he wasn't in.

ANTONIO CALIFANO: All right, I'll tell him and I'll just have him contact Keith.

JEFFREY LIPNICKY: Okay.

CHAIRMAN HASBROUCK: Keith's on vacation.

JEFFREY LIPNICKY: Yeah...he's on vacation so he should probably...

CHAIRMAN HASBROUCK: You may not be able to reach him...

JEFFREY LIPNICKY: at this point...talk to me.

ANTONIO CALIFANO: Okay.

CHAIRMAN HASBROUCK: I'm not sure but we'll keep him informed to...cause he had asked...you remember the email that came out yesterday from him...he asked Jeff to take a look at it and make sure he was happy with it even though Keith seemed to think it was okay.

ANTONIO CALIFANO: Okay.

CHAIRMAN HASBROUCK: But Jeff picked up on that right away...so...all right. The Board have any questions...initially.

RESPONSE: No.

CHAIRMAN HASBROUCK: Okay...if not, I'll open the floor for any public comment, the same ground rules apply as for the public hearing we just heard. Is there anyone here who has any questions, comments or whatever with respect to this proposal? Mam. Come up and give... use the mics if you would...give us your name and your address. Thank you.

JUDY PHELPS: Hi, my name is Judy Phelps, I own a vacant lot over on Russell Road. My name used to be Burnetter and I used to own some other land on Russell Road. I'm just curious, what's the square footage of the house?

ANTONIO CALIFANO: 32 hundred.

JUDY PHELPS: And is it gonna be directly on Russell Road?

ANTONIO CALIFANO: No. Actually. No. The house will actually be 300 foot off of Russell Road and if things go like we would hope, there'll be a proposed subdivision and this house will then access a street that is off of Russell Road. But for now, it will be a driveway to Russell Road.

JEFFREY LIPNICKY: If you want maybe you could take a look at the map that's directly behind Mr. Califano.

JUDY PHELPS: Yeah, I haven't had a chance to see it. And how many...I mean...I know you're here now for just a 2-lot subdivision.

ANTONIO CALIFANO: That's right.

JUDY PHELPS: But in the future...I mean...how many more houses could go back in there.

ANTONIO CALIFANO: Well we have conceptual approval and the conceptual approval basically showed about 30 homes on the 48 acres. But we have not come back in yet for a formal process. We're hoping to do that some time in the fall.

JUDY PHELPS: Oh, I...I think it's very nice and good luck to you.

ANTONIO CALIFANO: Thanks.

JUDY PHELPS: I...I've been through subdivision before, so I know what it...what it's like...and I wish you a lot of luck...

ANTONIO CALIFANO: Thanks.

JUDY PHELPS: with your subdivision.

JEFFREY LIPNICKY: Just to clarify...there has been no approval on that...that other a...

ANTONIO CALIFANO: Right.

JEFFREY LIPNICKY: subdivision...at this point, conceptual or otherwise.

[JUDY PHELPS AND MR. CALIFANO REVIEWED THE MAP ON DISPLAY AND DISCUSSED THE PROJECT. THEIR CONVERSATION WAS INAUDIBLE.]

CHAIRMAN HASBROUCK: Thank you Mrs. Phelps. Anyone else. We lost our good crowd.

ANTONIO CALIFANO: Thank God.

PHILLIP SCOTT: Phillip Scott, I live at 541 Russell Road. I'm just curious...you said there was going to be a road going in for a subdivision...in the future...can you just kind of point out on the map where that road...

ANTONIO CALIFANO: It's right where the current roadway would be right now... [REFERRING TO THE MAP]...this would be the area. In other words, this is gonna be my driveway going up the middle. If all goes well...and...

PHILLIP SCOTT: There's like...there's a path that goes back through the woods...

ANTONIO CALIFANO: There's a...there's...there is a road...

PHILLIP SCOTT: Is that where the road will be?

ANTONIO CALIFANO: That is an old access road...

PHILLIP SCOTT: Yeah.

ANTONIO CALIFANO: No its not it. It's down from...[INAUDIBLE]...

PHILLIP SCOTT: Yeah.

ANTONIO CALIFANO: on the...on the...bend.

PHILLIP SCOTT: Yeah. This way. This is I think...

ANTONIO CALIFANO: There's a current access...

PHILLIP SCOTT: This is like my driveway...

ANTONIO CALIFANO: Yeah.

PHILLIP SCOTT: There's like a little...

ANTONIO CALIFANO: there's a current...there's a current access here now...

PHILLIP SCOTT: Yeah. That...

ANTONIO CALIFANO: and that was the...

PHILLIP SCOTT: Yeah.

ANTONIO CALIFANO: the access for years...

PHILLIP SCOTT: Okay, I just...[INAUDIBLE]...

ANTONIO CALIFANO: for the saw mill.

PHILLIP SCOTT: That's what I thought.

ANTONIO CALIFANO: it's gonna be in that general location.

PHILLIP SCOTT: [INAUDIBLE]

CHAIRMAN HASBROUCK: Any other questions?

JEFFREY LIPNICKY: Just...Doug...if I...if I just might...just to let those two people who...who spoke here tonight know that the other subdivision of which Mr. Califano speaks would also be subject to a...a public hearing...

CHAIRMAN HASBROUCK: Right.

JEFFREY LIPNICKY: when we get to that point. We're not at that point yet.

CHAIRMAN HASBROUCK: Right. Thank you. Okay. If there's no other questions, or comments, I'll ask for a motion to close the public hearing.

DANIEL ODELL: So Moved.

ANTONIO CALIFANO: Oh can I...I do have one comment

CHAIRMAN HASBROUCK: Just in time.

ANTONIO CALIFANO: I'm assuming we'll go on the meeting and I probably will be...well I won't probably...but if do go on the next meeting...I will be in Hawaii some I'm gonna ask my attorney, John Della Rocca...

CHAIRMAN HASBROUCK: Are we invited?

ANTONIO CALIFANO: Sure. It's my 25th anniversary present to my wife, but...

CHAIRMAN HASBROUCK: Oh, very good.

ANTONIO CALIFANO: I'll be in Hawaii so between John Della Rocca and Sang Kim... unfortunately my contractor can't be here...but I would...I'm hoping John Della Rocca can...so if there's anything that were required to be done I'm quite sure... Do I have to formally give you something regarding that...because I won't be here?

JEFFREY LIPNICKY: Generally we have asked for that Doug.

CHAIRMAN HASBROUCK: I'm sorry.

JEFFREY LIPNICKY: I believe...or is that just for the public hearing that we've asked for that.

CHAIRMAN HASBROUCK: Public hearing...I believe we require...

JEFFREY LIPNICKY: I believe that we've asked for that.

CHAIRMAN HASBROUCK: the owner to be here but a...

ANTONIO CALIFANO: I can put...

CHAIRMAN HASBROUCK: or...or have a letter or something authorizing...

JEFFREY LIPNICKY: Yeah...yeah...I mean...the only potential issue that...that could arise is if in the discussions...surrounding the approval there was some commitment that we need from developer that there's somebody has his authority to speak for him.

ANTONIO CALIFANO: Yeah. I'm...I'm gonna try to have the attorney here because I want to make sure that the language on the flows of the deeds is all in order...so I'm gonna try to have him here.

CHAIRMAN HASBROUCK: Yeah.

ANTONIO CALIFANO: That would be what date in July?

CHAIRMAN HASBROUCK: I'm sorry.

ANTONIO CALIFANO: Is that the third Tue...Tue...second...third Tuesday?

CHAIRMAN HASBROUCK: Yeah. Two weeks from tonight. The 15th.

ANTONIO CALIFANO: Yeah.

CHAIRMAN HASBROUCK: Yeah. I don't know yet Tony...I know that there's still some things that they were working on and then Keith needs to...you know...nail down for us...to make sure that we're ready to bring you back to the agenda. So I'm not certain at this point it will be on the 15th...we talked about that this morning. We weren't quite sure...there's still some things that we need to see but if it is...as long as it's okay with you...then we can put it on and if anything came up that was a situation where whoever's representing you was not in a position to answer it...we'd just hold off any action if we need to...

ANTONIO CALIFANO: Yeah

CHAIRMAN HASBROUCK: until your back.

ANTONIO CALIFANO: We're hoping when we come back to probably...probably...probably get things started with the house...so.

CHAIRMAN HASBROUCK: Yep. Okay. The next meeting after that would be a...let's see... 15th...would be three weeks...

ANTONIO CALIFANO: Right.

CHAIRMAN HASBROUCK: because there's...there's five Tuesdays apparently in July so...

ANTONIO CALIFANO: So I'm keeping my fingers crossed Della Rocca and Keith...

PARKER MATHUSA: August 5th.

CHAIRMAN HASBROUCK: Yeah.

ANTONIO CALIFANO: can do their things.

CHAIRMAN HASBROUCK: August 5th would be the next one after that...so. So hopefully if everything comes together we'd be able to act on it that night...as long as there's no issues that you're not there to...you know...give an okay for.

ANTONIO CALIFANO: I'll conference you from a...Maui.

CHAIRMAN HASBROUCK: It's been done before.

BRIAN COLLIER: So your...

DANIEL ODELL: There's a time zone issue remember.

KATHERINE MCCARTHY: Also I want video if we do that.

BRIAN COLLIER: Your...your wife is going with you to Hawaii right?

ANTONIO CALIFANO: Yeah...she doesn't want to though...she doesn't want to fly.

BRIAN COLLIER: It's our 25th anniversary. I'm in Hawaii...

CHAIRMAN HASBROUCK: Okay...all set? Then again I'll ask for a motion to close the public hearing.

DANIEL ODELL: So moved.

KATHERINE MCCARTHY: Second.

CHAIRMAN HASBROUCK: All in favor?

BOARD MEMBERS: Aye.

CHAIRMAN HASBROUCK: Opposed?

BOARD MEMBERS: No response.

CHAIRMAN HASBROUCK: Okay. Thanks. Have a good trip.

DANIEL ODELL: Aloha!

PARKER MATHUSA: [INAUDABLE].

**The public hearing for the RDA Associates Subdivision closed at 8:47 p.m.**

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Following the public hearing, Chairman Hasbrouck introduced the Board Members to Nanci Moquin who was hired to replace Alice Cirillo as Planning Board Secretary, effective 07/15/03. The Board welcomed Ms. Moquin to the position.

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**APPROVE MINUTES - MEETING HELD ON MAY 20, 2003**

The next item on the agenda related to the approval of minutes.

Minutes of the regular meeting held on May 20, 2003 (transcribed by Deborah Kitchen) were edited by Mr. Lipnicky and Mr. Passmann and approved on a motion made by Mr. Odell, seconded by Mrs. McCarthy and passed by all present.

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Next, the Chairman extended his thanks and appreciation to Deborah Kitchen for her work on the minutes and for assuming the duties of the Planning Board Secretary after Mrs. Cirillo retired. He indicated that Mrs. Kitchen did a very commendable job and that the minutes were beautifully put together. He also stated that, "because of the Civil Service requirements, the fact that there was an existing list, and the way the County Civil Service classified the job, it turned out that Debbie was not eligible because she was not on the existing list."

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**The meeting was adjourned at 9:03 p.m.**

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Minutes of the July 1, 2003 Planning Board meeting were transcribed verbatim by Deborah Kitchen, Acting Secretary to the Board.

Respectfully submitted,

Deborah M. Kitchen  
Acting Secretary to the Board