

Town of Fort Ann
Final Planning Board Regular Meeting Minutes
Fort Ann Town Hall
Fort Ann, NY
November 25, 2013 7:00P.M.

(Recorder begins 6:58 P.M.)

1. Call to order. 7:00 P.M. by Chair Don Bedeaux

Pledge of Allegiance

- | | |
|--|---|
| <p>a) Roll call, Board members present:</p> <p>✓ _____ Donald Bedeaux, Chairman</p> <p>✓ _____ William Hohmann, Vice Chairman</p> <p>_____ Sally Walker</p> <p>✓ _____ Chad Wilson</p> <p>✓ _____ Brian Mattison</p> <p>✓ _____ Curt Rehm</p> <p>✓ _____ Howard Denison</p> | <p>Staff:</p> <p>✓ _____ Secretary: Leslie Barker</p> <p>_____ Temporary Secretary: _____</p> |
| <p>b) Others:</p> <p>✓ _____ Matt Fuller, Esq., Meyer & Fuller PLLC</p> <p>_____ Jeff Meyer, Esq., Meyer & Fuller PLLC</p> | |

2. Public Hearing: County Waste and Recycling Service, Inc. d/b/a Ace Carting Site Review Application, 10913 New York 149, Fort Ann, NY 12827 (Public Hearing format).

Jon Lapper, legal counsel for County Waste and Recycling Service Inc., began his presentation by recapping that the applicant had submitted their storm water plan to the town engineer, that the applicant had met with Mr. Jarrett, had made some changes to address Mr. Jarrett's concern, and that they met with the County Planning Board and received a no County impact decision. The applicant received a letter from Tom Jarrett requesting a few more changes on the Friday prior to the board meeting. Mr. Lapper stated they would be happy to work with Mr. Jarrett to get any changes he wanted and proceeded to cover the project's main elements for the audience and Planning Board. They were as follows: close in one building so it will be cleaner, pave the driveway, put in a lot of storm water infrastructure and add new landscaping.

Eric Steinhauser, project engineer with Sanbornhead, took the floor and reviewed the proposed site plan changes. They included the following points: 1) in order to use the building, they had to increase the surface area of the land and build a pond for two purposes: provide soil to re-grade the area and provide several uses for the water the pond collects; 2) the proposed paved road would help keep dust down and 3) they defined more drainage area along the sides of the road at Tom Jarrett's request 3) the existing graveled area would remain graveled unless they expand 4) the drainage basin will have a dry hydrant to provide 40-50,000 gallons of water for firefighting if needed, and dust suppression or water for agricultural purposes 5) drainage retention swails along the northern and eastern sides would remain the same size as before, but were enhanced by the bottom 3' becoming pervious soil so water can percolate rather than flow to the pond 6) there would be a drainage pipe at the bottom that would eventually lead runoff back to the pond at the request of Mr. Jarrett. Mr. Steinhauser additionally pointed out: 1) the small stone dams to slow the water flow down to the retention pond 2) some graveled areas which would be restored to a grassy area as some of the green infrastructure incorporated which were a result of discussions with Mr. Jarrett 3) limiting project to a size only as big as needed to move trucks around the site 4) storm water collection and 5) have the soil to limit earthwork that would have to come in from off the site 6) the treed perimeter areas would be a visual barrier to block visuals of the facility as recommended by Mr. Jarrett.

John Wright followed. He pointed out the purposed enclosed building, orientation of the building doors and purposed paved drive.

Chair Don Bedeaux asked for public comments.

Bruce Mowery, owner of the surrounding property known as Harris airport, took the floor. His concern was the applicant would add household garbage. He asked what instrument could be put in place to have the site monitored, so that down the road if a new owner took over and decided to cut costs or problems arose, they would

2. Public Hearing: County Waste and Recycling Service, Inc. d/b/a Ace Carting continued

be addressed without having to go to court and/or sue someone. Mr. Wright replied that DEC monitors the operation continuously and they must follow DEC guidelines. If they don't they will be fined; DEC inspects the property.

Mr. Steinhauer added there is a state permitting process that they will start next week. There will be an operating manual and Ace Carting will have to do certain things. The state can inspect when they wish or respond with an on-site inspection if someone calls with a complaint. Further, region 5 DEC can do on site inspections during or after business hours to perform a monthly inspection, if Ace is notified. DEC rules and regulations include items like odor and they have to abide by those permits. Mr. Mowery wanted to know if he and surrounding properties would be protected from potential odor and potential vermin and birds. Mr. Wright brought up the 'fog masters' that neutralize odor and that the garbage will not sit in the building very long. Material coming and going out will be a continuous operation during business hours. An additional permit for household garbage is required and it has more regulation. If the permit is not adhered to, it can be revoked. Mr. Mowery concluded that recourse is through the state and DEC. The applicant agreed. The applicant reminded Mr. Mowery that the Town and Planning Board would have the right to enforce for site compliance as well.

Michelle Vara took the floor to ask if there will be a water sample taken as a base sample before development occurs. Mr. Wright answered absolutely and reviewed the water collection system from the building, stating that no building discharge will go outside. Building discharge will all go into the tanks and be pumped out. Rainwater will flow into the retention pond; it will not fall on garbage. Ms. Vera set up a scenario in which the machines go down, there are 3 trucks loaded, it rains hard for a week, trucks could not haul material away and there is seepage, which will run off because of the clay soil. She asked where does that water go, how is the public sure the water does not go into the retention pond and whether someone would monitor the pond to standards.

Kurt Shaner, an engineer for Waste Connections, the parent company to Ace Carting, answered water that comes in contact with the waste stays in the building, will go to the floor drains that drain into a tank. The tank will be periodically drained and taken to a treatment plant. Ms. Vara: what is periodically? Mr. Shaner: when are tanks emptied. Ms. Vara: who regulates how often? Mr. Shaner: how often does one empty a septic tank? There are 2-1500 gallon tanks or 3000 gallons holding capacity, the tanks are concrete, will have alarms and would be emptied when they get to $\frac{3}{4}$ or $\frac{7}{8}$ full. At that time the alarm would go off and the septic truck would come in to empty them. There will not be any trucks with trash on them outside exposed to the rain. Both trailers accepting trash and those bringing it will be indoors. Vehicles outside of the facility will not have trash in them. Michelle: she has watched the facility in Wilton, gone to meetings for that and her family drinks that water as well. She has seen those machines go down with tractor-trailers loaded with trash sit for 3 days in the rain. What is going to protect everyone's family? Kurt's reply: the way they run their business. None of their other operations function that way (like Wilton). Ms. Vara: where are your other operations? Kurt: Exit 10-Clifton Park, Troy Transfer facility, a recycling facility in Albany and Sierra Processing.

Mr. Bedeaux: where are the tanks? Applicant answer: the new tanks have not been specifically located yet. Bill Hohmann: how will tonnage be monitored? How does the public know how many trucks are coming in? Will the building be big enough for trucks coming in? Mr. Wright's answer: permitting limits the quantity/tonnage. DEC limits tonnage to the size of the facility. Their scales monitor tonnage. Going over would be a violation of their DEC permit. Once that limit is reached, they have to shut down for the day (tonnage limit per day). Tonnage reports are submitted to DEC. Mr. Hohmann: as tanks become full, will you halt production that day? Applicant response: tanks will be pumped before full. Mr. Hohmann: you say you are going to wash the floor and building down; the tanks are not that large. Applicant's reply: tanks will be pumped as often as necessary. The maximum flow would be 1175 gallons; the capacity is monitored by the alarms.

Ms. Vara: do you self-monitor that? Applicant answer: yes and DEC will do an on-site inspection, including the tanks and daily scale reports. DEC will look at tonnage, frequency of pumping and how much water they are generating. Vara: does DEC fine? Applicant answer: absolutely and can revoke the permit. Planning Board: does DEC monitor Wilton? Applicant answer: they would have to if they have a permit. Ms. Vara stated she spoke with DEC and they said they had not inspected Wilton in six months. For this region, inspection is monthly. DEC can come in and just do a walk around. DEC did a visual walk around inspection less than six weeks ago. They can come unannounced.

Ms. Vara: let's say a freak accident happens and the water in the tributary becomes different; the water in the

2. Public Hearing: County Waste and Recycling Service, Inc. d/b/a Ace Carting continued

tributary changes 1-2 years into the project. Ms. Vara is worried about tainted water. Applicant answer: how could water get into creek? Ms. Vara: it is clay. The applicant clarifies she is concerned with seepage and rainwater and states anything inside building goes to holding tanks, that there would be no seepage from building or holding tanks and no loaded collection vehicles would be outside where rainwater can meet the trucks. It is to the applicant's advantage to have dry trash as they can load more on trucks and most of the trash coming in is pretty 'dry'. When daily tonnage is met, they can still haul waste out. Ms. Vara: how much more trash will be coming in? Applicant answer: 95 tons per day now, they are seeking 550 tons per day broken up into trash, construction debris and recyclables.

Brian Mattison: drains in the building-are front bays pitched for the drains? Applicant answer: yes, they like drains to be towards front of the building so they don't get 'gunked' up. Everything (the floor) is pitched towards the drains. Brian: the East/West area of building is lower than the rest of the building? Applicant answer: yes. The east-west area is about 5' lower than the rest for loading into trucks.

Curt Rehm: trailer floor is pitched for water collection also? Applicant answer: correct, the tanks will have to be below that grade. Mr. Rehm inquired about pitch and location. The applicant response: it will favor the front but not to the front door, 2/3-1/3, drains will be closer to the front or 1/3 in. When washing floor, it will go to the drain and holding tank. Once the floor is clear, it can be washed. Mr. Rehm: some loads will have recycle and trash. Why dump on floor when they could shoot it directly into tractor-trailer? Applicant answer: each truck is different and has a different height. Mr. Rehm: is there any chance of any contamination as a result of a direct shoot? Applicant answer: there are different trucks and combinations.

Ms. Vara: does DEC have an open public meeting before a permit is issued? Applicant answer: not sure, they believe there will be a public notice. Ms. Vara: do they come to the Planning Board and make a presentation so the public can know what has been accepted? She stated she has been fighting one person in town that is dumping garbage and toxic waste that the Planning Board cannot control. Who is going to protect my family and the public, she asks? Matt Fuller in response to DEC making a presentation to the Planning Board: no. Howard Denison: the Planning Board is not a police organization; the Planning Board gives approval and what the applicant has to abide by. If there is a problem, first, DEC should be notified. If DEC does not take action, they can ask the Fort Ann Town Board to go to court and have a judgment made. The policing authority would be DEC, they have the power to shut down and/or fine. The Planning Board's restrictions are limited to landscaping, lighting, that a building is built the way it is supposed to be. Once the facility is done and operating, the Planning Board is out of the picture. With operating concerns, Ms. Vara should speak with DEC. The applicant mentioned DEC as well and the state and federal regulations that make sure people in this industry are 'good operators' so to speak.

Brian Mattison: what regulates the 550 tons a day? Applicant answer: the applicant came up with the tonnage and the building has to comply with that. It is a number they hope to grow towards. They don't anticipate hitting it within the next several years. They will strive for that, but do not want to over invest capital. Right now, it is oversized.

Howard Denison: what would you perceive would be your percentage now? Applicant answer: 35-40%. Their vehicles can return to their facility rather than go to the burn plant in Hudson Falls; the majority of use is for their personal collection vehicles. They will accept third party customers. They want to save money. Everything goes to the burn plant in Hudson Falls now. It will be cheaper to go in big trucks rather than small trucks. They will continue to use the burn plant. Right now, when collection vehicles go to the burn plant it can be jammed up & they can sit for an hour. They can facilitate a quicker turnaround time using tractor-trailers. Mr. Denison: how many (smaller) truckloads fit into the bigger trailers? Applicant answer: small vehicles average 6-8 tons (recycle and trash) and they can get 26 tons in a trailer or 4-5 trucks in a tractor-trailer. Three or four to one depending. The burn plant closes at 4, but burns 24/7.

Audience question: is there a tonnage limit for the burn plant as well? Applicant answer: yes. If the burn plant has met capacity, the applicant has numerous other facilities within the company they can bring it to; the burn plant is not the only option to dispose of material.

Mr. Bedeaux: any other questions? Chad Wilson: is the facility set up for two trailers? Applicant answer: 3; 2 for trash & C&D, one for recycle. Chad: the number for new facility is 22 trailers? Applicant answer: about 17-18 trailers. Mr. Wilson: hours of operation? Answer: 7-5 will be the new hours. Wilson: if they hit capacity what will

2. Public Hearing: County Waste and Recycling Service, Inc. d/b/a Ace Carting continued

happen to the rest? Will they sit outside for a few hours or all day? Applicant answer: no, as they are loaded, they will leave the facility. They will "jockey" them out within an hour. Wilson: you said nothing is exposed to the weather. In a perfect world, that would be correct, providing the hauler is picking up the trailer and leaving. If you follow these trucks going down the road, maybe just 30 tons, they leak a liquid. What is the applicant doing with that liquid? Applicant answer: They have not seen that much liquid coming out of trucks. There is a problem with that piece of equipment. They don't have trailers leaking liquid when they leave the facility, maybe due to drains in their facilities. A street sweeper is run through on a daily basis. Chad: what are you accepting for materials? C&D only? Applicant answer: C & D and MSW (municipal solid waste). As material is collected from the homes, the trucks compact it in the truck. As a truck empties its load, any liquid will go to the floor drains. By the time it gets loaded into a trailer, the majority of liquid has been drained into holding tanks. On a dry day, one does not see liquid on the floor of a transfer station; it is dry. If it is big rainfall day, water will come off the tires.

Ms. Vara: are you going to tell me in August with household garbage crushed in the container and dumped on the floor, there is not going to be liquid? Applicant answer: the other paper garbage soaks it up. Two positive things happen: they are enclosed and have floor drains. You will have an excavator loading the trailers and a loader pushing the waste to the trailer with a 4' squeegee so the floor is constantly being cleaned. They want the floor to be clean. Waste is not exposed to outside elements; it is being controlled inside the building. This is not a new; they have two other facilities and it is a non-issue. Mr. Wilson: as consumers, we are not throwing away dry material. Applicant response: a lot of the liquid picked up goes into the drain in the body of the truck on the collection side. The trucks have body plugs and then drain that into the drain inside the building; it has already been drained. The collection vehicles have sumps in the front of the body and that is drained into the holding tanks all within the building.

Ms. Vara: 3000 gallons does not seem like a whole lot. Audience members: not a lot, looking at a milking parlor that has to drain their tank four times a week and that is 2000 gallons. You could get that in a day with 550 tons of moisture coming in. Applicant response: if pump-outs become too frequent, there is the option to add another tank or bigger tanks. The Clifton Park facility does 700 tons a day of MSW and C&D; they have a 4000-gallon tank that is pumped out every 9th or 10th day. It has an alarm on it. MSW is all in enclosed trucks. C&D is compacted and moisture is absorbed. Question: what is a tanker-5-6000 gallon? Applicant answer: 7500 gallons. In Troy, the tanker comes once a week for a 1000-gallon tank on schedule to keep the level down. It will be part of their regulations and permit.

A member of the audience is worried about the clay soil not draining, that water will sit on the surface. Applicant reply: (the size tank) was engineered out. Audience: does DEC have guidelines for tank sizes, tonnage? Comment: I don't think their regulations are that detailed. Applicant response: if a bigger tank makes people feel better, from their standpoint it is a routine thing they have to do. If they get a bigger tank, they will have to empty less often. Planning Board: if the tanks are full on a Friday and the facility does not open up until Monday, where will it go? Where does the water go if the tanks are full? Applicant answer: Fort Ann will be open on Saturday and people will be there to run operations. It is in their best interest along with the community's that they monitor it every day. Planning Board comment: their permit can be revoked and they will not be able to operate. There are a lot of cars on 149, if someone gets a smell, they will complain. Did you receive the letter from (Tom) Jarrett on Friday? Applicant response: yes. It appears Tom wants a little more work and they are ready to do that. They have done everything he has asked for. He is asking for more storm water facilities and they will do that. Howard Denison asked the applicant's engineer if there was anything in Mr. Jarrett's letter he felt was over-bearing on them. Applicant answer: they can work it out; the Jarrett letter was not very specific and hard to know what he is saying in that letter. They will meet with DEC next week for a pre-application process before they submit to make sure they submit everything DEC wants to see. Planning Board to each other: go forward and make it a condition of approval.

Audience question: below clay is normally rock, will blasting be needed to put tanks in? Applicant reply: they did a test in the deepest area they would have to dig, went 14' down and it was solid clay. They did not encounter pebble or rocks. Audience question: is there a well on the property? Applicant reply: (Shows location on site plan). Audience question: where is the septic? The applicant shows the location (the other side of the building) of septic and leech field on the plan. Public question: are they within standards for well and septic? Applicant reply: the septic location was provided to them by another engineer's plan, the well was site located. Public comment: that does not answer my question. Applicant response: it has to comply with separation requirements. It is not a drinking water well. Public to Planning Board: gentlemen, does it comply? Planning Board response: when the

2. Public Hearing: County Waste and Recycling Service, Inc. d/b/a Ace Carting continued

original plans of the project first came to the Planning Board, Washington County would have been the overseer to see the septic system was 100' away from the well. Public: you are telling me that is not your job? Planning Board: it is not their job because they do not police. Applicant response: it was approved by the county to get the building permit. They had to get a permit to build the building. Planning Board: how long ago was that? Applicant response: about 5-6 years ago, 2008. The Planning Board acknowledged Ace was before the board at that time and that they had to go after Ace for trees and other non-compliance items that will be brought up later. We are saying the county gave the CO (certificate of occupancy). Applicant response: the water is not potable water, it might not apply. Planning Board: the print says well water. Applicant response: well water, not drinking water. The well location was not a survey location; it was 'eye balled' from where it sticks up. Planning Board: if eyeballing, what do they have prints for? The plan scale indicates it is 90 feet. Someone should go to the site and look. Applicant response: it was in the notes they got from another engineer. The project is not about that existing condition, it is dealing with the expansion. Planning Board: normally in the past when there were conditions like that, until they were corrected, they did not give approval. Shouldn't that be on the plans (well water but non-potable)? How did you get a CO when you are within that distance? Howard Denison: now is the time to check. Don Bedeaux: the county approved it and gave them their permit. Applicant: everything Tom (Jarrett) gave to the Planning Board is DEC (related). Planning Board: storm water from the access road? Applicant reply: there is drainage along the access road now. Mr. Jarrett wanted to see something more defined, so they defined the drainage ditches on each side of the road, which is more of a ditch than is there now. It shows on the plan view with a couple of culverts. Public: where does that water go? Reply: it runs to the ditch on 149. (Applicant shows water drainage direction on the plan.) Right now, it (access road) is gravel but will be paved. They will make the ditches as deep as Mr. Jarrett wants.

Ms. Vara: what is the parking lot changing to/how much bigger? The applicant shows current parking lot and states they will put a new parking lot in the corner of the property. They will be gravel surface.

Planning Board: there was the problem with the back-up alarms. Applicant response: they got information on those; the alarms work by the ambient noise outside. As the ambient noise gets louder, the alarms get louder too. They still meet specifications for decibel noise. Mr. Denison: I was referring to the ones that have a distance requirement. Mr. Wright: no, these work with ambient noise instead of distance. They are called white noise or smart alarms. In the building, if it is quieter, it will be a lower decibel. They will be on the equipment inside the building. They can be retrofitted to the collection vehicles also. They can provide the Planning Board with the literature on smart alarms. The Planning Board can require as a condition.

Mr. Denison brought up lighting. He had driven by the facility and felt it was 'lit up pretty well'. He stated he understood it was for security purposes and that there is a different kind of lighting that is less intrusive. He asked the applicant to look into this type of lighting and felt the neighbors would appreciate not having the site so bright. Applicant response: what type of light are you thinking of? Planning Board: down lights. Mr. Denison: go to Queensbury to find out about down lighting. Applicant response: there are different types of down lights: white and yellow at nighttime-it is a dimmer. Planning Board: information on the fogger? Applicant response: they have literature on the foggers. (They would be the) Same as the ones at the burn plant. They are put on a 55-gallon drum, have 3 nozzles each and one can adjust the particulate size coming out, for more or less material depending on what you need. Howard Denison: drive by the trash plant and one does not smell anything. Mr. Wright: remember that trash sits there. Ours will not sit there.

Chair Don Bedeaux: any other questions? Mr. Hohmann: the retention pond-will it draw foul & hurt the airport owners? Applicant reply: not designed to draw foul to it, by regulation it is designed to be a wet pond because of the area and soil type. Because it is a wet pond, it will have a fringe of wetland planting to it. They are not bird experts. Mr. Hohmann: not sure if it will be a problem with geese, seagulls. Birds are not a bad problem with prop planes. Bruce Mowery: FAA cited a concern about water in the area and garbage because of the attraction. It would certainly attract birds. Another key issue brought out was as long as the water is uncontaminated water and just surface water. There is another pond in between where the ridge is and the (airport) runway. The airport has not had an issue with birds at that pond. Where will the retention pond be located? Applicant response: on the 149 side, further away from the runway. Mowery: if it is clean water, not contaminated, chances are it will not draw in much wildlife. If it becomes contaminated it might be a different story. Applicant response: contaminated water is part of the DEC issue. The pond is designed to hold a certain amount of water. Once it gets above that, a drain takes it off. Chad Wilson: if it gets to that level, where does the water go? Applicant response: it discharges to the low side of the field & points to riff raff on plan. Chad: how far away is the discharge from the small tributary

2. Public Hearing: County Waste and Recycling Service, Inc. d/b/a Ace Carting continued

(Halfway Brook)? Comment: informally scaled about 2000'. Chad: is that the creek or tributary to the creek? General discussion ensued. Mr. Denison: any alternative to this pond? Applicant response: no.

Chairman: any more questions? There were no additional questions. Chair to Planning Board: table until they get everything back from DEC etc? Motion was begun to close the public hearing. Mr. Fuller asked that they answer the question before making that motion because if they get more information afterwards they will have to re-notice it. Chad to Matt Fuller: did you say DEC would not give a presentation to the Planning Board? Mr. Fuller: they are not going to give one here. It is a separate jurisdiction, "part 360 permit". Chad stated after looking at the project, he did not believe what could be put in now and voiced concern that the public does not understand what will be put in the facility once they get a permit to take solid waste. He recommended looking up what "solid waste" is on the DEC website. He stated he did not know what "septage" is until he looked it up. It includes anything left in the septic tank or human sewage. Matt Fuller: the applicant will not be permitted to take septic sludge or "cake". Chad: where can he look up exactly what will be allowed to come in? Applicant reply: DEC. Mr. Fuller: has the applicant submitted the 360 permit yet? Applicant reply: not yet. It is called municipal solid waste, not solid waste and that is where the confusion is. Municipal Solid Waste is household (residential) trash. Mr. Fuller pointed out there are only several places in the county that will take solid waste which are Kingsbury and Glens Falls. Mr. Wilson stated that there are people who drain anti-freeze & oil from their car, put it back in containers and dispose the garbage.

A general Planning Board discussion followed about the applicant not being able to control what people put in their household waste, that the applicant submitted plans governed by DEC regulations, the County approved the CO when the well is not 100' from the septic. Planning Board question: what is the water used for flushing toilets? Applicant reply: yes. They have water coolers on site; they use bottled water for everything. Mr. Rehm: we are policing an engineered plan when the applicant was approved by the county, now the Planning Board is policing what the county approved...if the county approved it. Chairman: they (the applicant) still need to get their permit, in order to get their permit the county had to approve it. It is not part of this project. Do you want to table this and put stipulations on it or close the public hearing? Planning Board comment: they have to come back anyways, why not table until they get more of the paperwork. Matt Fuller: what is the information the Planning Board wants? The Planning Board answer: final storm water, floor drainage plan, lighting details and information, information on the back-up alarms, and the DEC application. Applicant response: would it be easier to do that as a condition-that your approval is contingent upon the DEC approval? Planning Board answer: Ultimately, yes, that will be the case. Can the Planning Board get a copy of the application? Matt reviewed what the Planning Board requested and asked if they want the whole (DEC) application. The Planning Board confirmed it did want one whole DEC application for the public and their record. Applicant question: date of December meeting? Planning Board reply: usually the Planning Board does not have a December meeting. Mr. Denison: applicant will go forward with DEC application and that will take time; not meeting in December will not hold the applicant up? Applicant response: to fill out the entire DEC application, they need approval of the building site. A chicken and egg situation. If the applicant does not get approval from Town of Fort Ann Planning Board, it will hold up finalizing the DEC permit. Don Bedeaux stated he does not want to hold applicant up and that they are putting in a good program. Mr. Denison: if the Planning Board does not give approval in January or February, the applicant cannot build it without the Planning Board approval. DEC will not issue their permit. In reality, the Planning Board can put stipulations on their application; I don't believe the Planning Board can stop it. There is no zoning & there is no way for the Planning Board to tell the applicant they cannot proceed. The Planning Board can make sure it is done to the best of their ability and meets the safety of the community. Matt Fuller: a Planning Board cannot deny a use under the site plan review but can condition it. Mr. Denison agreed, stating they can condition for things relevant to safety and things like lighting, trees. Applicant response: they are happy to address those. If there are conditions, they will be happy to fulfill them.

Denison to the public: it would be very difficult for the Planning Board to say 'come up with some environmental reason why the applicant cannot operate'. Matt Fuller stated that there isn't an EAF that he saw on file, but thinks the Part 60 when the applicant hits the 500 ton mark is a Type 1 for DEC, not the Planning Board. If the applicant gets a letter from DEC that will close the Planning Board's SEQR file or the Planning Board will need an EAF they can go through. It would be the new short EAF. Denison to Chair: are you comfortable with what the Planning Board proposed? Mr. Bedeaux's reply: yes, as long as they can file with DEC. Mr. Fuller: the applicant is saying it is a business risk; they don't want to go ahead and submit to be denied by the Planning Board. Applicant response: they did submit an EAF for the record. It is in the September 13 submittal. Is it possible to get approval contingent upon successful completion of these five items? Something they could get tonight? Mr. Denison: no. Mr. Fuller recapped what the options were for closing or tabling the public hearing. Mr. Denison: any objection to

2. Public Hearing: County Waste and Recycling Service, Inc. d/b/a Ace Carting continued

having a meeting in December? Need another 10 days for notification of Public Hearing? Matt: yes. A Planning Board discussion followed. Applicant comment: too short a time, they are still connecting with Tom Jarrett. The Planning Board confirmed the next meeting would be the fourth Monday in January 2014 (27th). Matt advised the Planning Board they needed two parts to the motion 1) table the Public Hearing until January 2014 2) table the application pending receipt of the CO, final storm water sign off from Tom Jarrett, floor drainage plan, the lighting plan, back-up alarm plans, and a copy of their DEC application until January 2014.

Motion made to 1) table the Public Hearing until January 2014 2) table the application until January 2014 pending the receipt of the CO, final storm water sign off from Tom Jarrett, floor drainage plan, the lighting plan, back-up alarm plans, and a copy of their DEC application.

Tabled Until January 2014 meeting

Motion	<u>Brian Mattison</u>	Second	<u>Bill Hohmann</u>		
Vote:	<input checked="" type="checkbox"/> All Ayes	<input type="checkbox"/> All Nays	<input type="checkbox"/> Abstentions		
	<input type="checkbox"/> Bedeaux	<input type="checkbox"/> Hohmann	<input type="checkbox"/> Walker-absent	<input type="checkbox"/> Wilson	
	<input type="checkbox"/> Mattison	<input type="checkbox"/> Rehm	<input type="checkbox"/> Denison	<input type="checkbox"/>	

Public Hearing and application tabled until January 2014.

3. New Business:

a. **Chris & Jenn Tyler, Mobile Home application**, 485 Deweys Bridge Rd, Fort Ann, NY

Jenn explained she was not sure what to use for the EAF, so put both in. They are taking out a singlewide and would like to put in a pre-built home. Mr. Denison: putting in a modular home? Applicant response: no, because it will not have a basement but will be on a slab. Denison: double wide? Applicant response: No, single wide, 14' wide x 72' long. Putting it in a different location by about 30', which is about 105' from the road and is within the regulations. Planning Board: keeping the existing well? The applicant replied they just put in a new well and are keeping the existing septic system. Ms. Tyler stated she misunderstood their contract and thought they would get a new septic, but will not. (The application indicates new septic). Ms. Tyler said they put in their application with the County on Monday, spoke with Russ Kiggins who gave the go ahead for the foundation. Planning Board: is there a site plan in the application? Applicant reply: yes. Planning Board: is this about 2 acres? Applicant reply: yes, the rest of the property, which was about 160 acres, was sold last year about this time. The applicant explained where the parcel was positioned on the road and that it won't be in the sight line of any neighbors. Planning Board question: distance from well to tank? Applicant reply: about 100' from slab and about 120-130' from septic.

Chairman: any other questions? Are you getting rid of the old mobile home? Applicant reply: yes. Planning Board question: how long has it been there? Applicant reply: since 1991. Planning Board: is that on a slab? Applicant response: no, his father put that in and there were no regulations on it. Planning Board: what was the old trailer used for? Applicant reply: Chris grew up in it. Planning Board comment: that is when they grandfathered. Applicant reply: yes. Howard Denison: it was grandfathered, because it was used as a farm and people were living in it. Jenn stated the old trailer should be removed within the week or so. Planning Board: should they have the short EAF form changed? Planning Board legal counsel: no, it is a type II. Planning Board: as far as the septic not being new? Legal Counsel: no SEQR on this incident. Planning Board: when is the new unit showing up? Applicant reply: whenever the Planning Board gives the go ahead.

Chairman: any other questions? Applicant response: it is waiting on 22 now, they have to pour the slab and let it sit. Once they get the permit from the Planning Board, it can go right in.

Chairman: any other questions? Make a motion? Planning Board: it is an allowable use? Matt: it is. When is the Town Board meeting? The next future town board might take up the Mobile Home Law, because of the way it is worded. The Planning Board can only grant a permit for the replacement of a Mobile Home; it should be changed. The Planning Board can only do that upon notice of a Public Hearing. So if the Planning Board is going to recommend that be waived, the Planning Board does not have the authority to do that. Only the Town Board can waive provisions of this law. Mr. Fuller gives the Planning Board the options to pass a resolution with a Public Hearing in January (2014) or recommend to the town board that they waive the public hearing requirement since the replacement

3. New Business continued:

- a. **Chris & Jenn Tyler, Mobile Home application continued**, 485 Deweys Bridge Rd, Fort Ann, NY meets all the setbacks etc. Time and speed wise, that is the best they can do: recommend to the town board that they waive the Public Hearing requirement. Planning Board: for a replacement? Mr. Fuller: yes, and reads the legal code sections 12.2: 'If the owner of the land desired to substitute a mobile home of superior construction or improve the facilities for the existing mobile home, such owner shall file an application for license pursuant to Section 11 hereof' and section 11.1d which states 'The PLANNING BOARD may grant a permit for a single family mobile home on a single parcel only upon the Planning Board conducting a public hearing upon 10 day notification of said public hearing.'

Motion made that the town board make a waiver under Section 11.1d of the Mobile Home Law and based upon that waiver to approve the application.

Tabled

Motion	<u>William Hohmann</u>	Second	<u>Brian Mattison</u>
Vote:	<input checked="" type="checkbox"/> All Ayes	<input type="checkbox"/> All Nays	<input type="checkbox"/> Abstentions
	<input type="checkbox"/> Bedeaux	<input type="checkbox"/> Hohmann	<input type="checkbox"/> Walker-absent
	<input type="checkbox"/> Mattison	<input type="checkbox"/> Rehm	<input type="checkbox"/> Denison
			<input type="checkbox"/> Wilson

Fuller comment: law needs to be fixed. Chad: question-the rest is just the normal process? Answer: yes. The town board would take it up at the first meeting. Reason the town board would deny? Answer: never have in the past; they have granted waivers for bigger things than this. Secretary: the applicant goes through the town and they are done? Answer: they are done; they don't have to come back to the Planning Board. Applicant question: more work to do for the town board? Answer: no, just show up. Secretary: send extra copies to the Town? Answer: send a copy to Darlene with a note the Planning Board recommended a waiver and approval, it will probably be Okay.

4 Old/Other Business

- a. **Rebecca Parrott**, line adjustment, review of Ms. Parrott's Boundary Line Adjustment form; no one present, form not reviewed.
- b. **Wayne Ferguson and Don Valentine, site review**, the Shed Stop, 11311 New York 149, Fort Ann, NY 12827 Secretary noted their application was brought in this day (Monday). She questioned whether it should be reviewed, since it was not submitted 10 days prior to the meeting. Mr. Ferguson and Valentine began their presentation by stating they are now located across from AirPlay and would like to relocate this winter to Gregory Lehoisky's lot on Route 4 (tax map # 103.-1-16.1) and need to clear the lot. They will not be building a structure, put in a septic or a well. They want to put a crushed stone parking lot in to sell their buildings from. One shed will be used as an office for phone and power. They will have a "portapotty". They met with Tom Hutchins who did the drawings. Mr. Hutchins advised they could go through DOT, but that it would not be a problem because they could use the existing road on the property. The proposed location is on a 6.6-acre lot. The applicant provided a letter from DEC who determined it was not wetlands. They still need to check with the Army Corp of Engineers. They hired Kim Copeland, who does the liaison with the Army Corp of Engineers. Ms. Copeland flagged the site and determined that area was not wetlands, it was okay to clear the lot and put crushed stone down as long as the wetlands were not disturbed. An informal Planning Board discussion with the applicant followed. It was noted the involved area of the project would be less than an acre. Mr. Hohmann asked if there had been several temporary road cuts and whether they had grown in. The cut locations were discussed.

Chairman Bedeaux asked if there were any questions. Is this a parking lot? Applicant reply: Basically, it is just a parking lot. They were not sure about the farmland part of the application, but filled it out because of the Walker Farm across the street. Planning Board question: is the EAF the new one? Secretary asked when the applicants got their packet to determine which EAF was included. Mr. Fuller checked and verified the EAF included in the application was the new form.

No additional questions were asked. A request for a motion came from the Chairman after which there was a discussion of procedure. Because it is located on a State Route, the project has to go to the County Planning Board next. Mr. Fuller recommended a motion be made for a public hearing and

4. Old/Other Business continued

- b. **Wayne Ferguson and Don Valentine continued**, site review, the Shed Stop, 11311 New York 149, Fort Ann, NY 12827 continued to refer the project to the County Planning Board.

Motion made to set a Public Hearing for the January 2014 meeting and to refer the application to the Washington County Planning Board.

Tabled

Motion	<u>Bill Hohmann</u>	Second	<u>Howard Denison</u>
Vote:	<input checked="" type="checkbox"/> All Ayes	<input type="checkbox"/> All Nays	<input type="checkbox"/> Abstentions
	<input type="checkbox"/> Bedeaux	<input type="checkbox"/> Hohmann	<input type="checkbox"/> Walker-absent
	<input type="checkbox"/> Mattison	<input type="checkbox"/> Rehm	<input type="checkbox"/> Denison
			<input type="checkbox"/> Wilson

Applicant question: would it be okay to continue clearing the lot and put stone down before the frost?

Secretary pointed out that at least 4 copies need to be left for the Public Hearing. Applicant will reproduce the necessary additional sets of the application and a CD with the application digital file for the County and drop off at the secretary's address. Mr. Fuller commented to the board if the project was not on a county road, they could waive some requirements and that the Planning Board cannot take any action until it goes to the County Planning Board even though it is just a parking lot. The Fort Ann Planning Board can enter into an exemption agreement with the County Planning Board as most of the Planning Boards have done. This board's exemption agreement expired last year (good for six years). That agreement will save some applicants from having to go before the County Planning Board. The County Planning Board has a list of applications they prefer not to review. The general state law states everyone has to go to the County Planning Board if a project is within 500' of a state road and that local and county Planning Boards can enter into exemption agreements. Washington County Planning Board has a list of applications that do not have to go to them. Matt will schedule for the beginning of the year and send to the Planning Board.

- c. **Maryanne Terry, Airosmith Development, AT&T 1684 Pilot Knob Road LTE Upgrade PB, tabled from Oct 2013 mtg.** No one was present for this application. Chairman Bedeaux opened discussion on this application. There was discussion about construction being completed in 2006, not getting the necessary paperwork from the APA, that things were not quite right and that other agencies had looked at the project site. Planning Board question: is there a limitation of time that runs out (for the violations)? Mr. Fuller: there is no statute of limitations on a violation like this, because it was never deemed compliant by the Park Commission. The Park Commission and APA are under-staffed and will wait until an applicant returns, at which time they will not process a project until the applicant brings the project into compliance. The main issue with this site is storm water. The road is gravel, which is considered impervious as if it was paved. The applicant told everyone what they were going to do and never followed through and did it. Planning Board question: what needs to be done and will the applicant do it if they recommend it? Matt: they have not done any of the improvements they were required to do in 2010 when they were last before this board. Legal Counsel sent a memo to the applicant last week stating the Planning Board will not review or go forward if the project is in violation. Bring it into compliance and come back. The Planning Board can table the project until they comply with the storm water issues. Howard: once they submit proof they have done what they were supposed to, the planning board can move forward. Secretary confirms the board is waiting for compliance. Question: how long can the project be tabled? Mr. Fuller recommended that the applicant be given a chance to respond several times. If there is no response, the board can deny the application without prejudice to reapply or start all over again. Planning Board question: can the Planning Board make the applicant start over? Legal counsel reply: yes. As a scenario, the Planning Board could send a letter to the applicant stating that they asked for specific things and there was no response. In a month, a follow up letter could be sent with the warning that this is their last notice and that if corrections are not made the Planning Board will deny the application without prejudice to reapply.

Motion made to table the application until January 2014 pending compliance.

4. Old/Other Business continued

c. **Maryanne Terry, Airosmith Development, AT&T 1684 Pilot Knob Road LTE Upgrade PB continued**

Tabled Until January 2014 pending compliance

Motion Howard Denison Second Brian Mattison

Vote: All Ayes All Nays Abstentions
 Bedeaux Hohmann Walker-absent Wilson
 Mattison Rehm Denison

5. Review and Approve Proposed Planning Board regular Minutes of October 28, 2013

Motion made to accept the October 28, 2013 minutes.

Tabled _____

Motion Brian Mattison Second Chad Wilson

Vote: All Ayes All Nays Abstentions
 Bedeaux Hohmann Walker-absent Wilson
 Mattison Rehm Denison

6. Motion made to adjourn, 9:06 p.m.

Tabled _____

Motion William Hohmann Second Brian Mattison

All Ayes All Nays Abstentions
 Bedeaux Hohmann Walker-absent Wilson
 Mattison Rehm Denison

7. Please note: the sign in sheet from this meeting will be filed under **Planning Board Regular Mtg, 11/25/2013.**

8. The next regular Planning Board meeting will be **January 27, 2014. Public Hearing notice must be posted in the Post Star on or before **January 17, 2014.** Notice to be tacked to Town Hall Bulletin board for inspection.**

Leslie Barker, November 25, 2013
 518 792-0879