



Present: Ray Herrmann, Planning Board Chairman
Jerry Grant, Planning Board Member
Matt Murnane, Planning Board Member
Trina Porte, Planning Board Member
Mark Sheline, Planning Board Member
Bob Smith, Planning Board Member
Craig Trombley, Planning Board Member

Others Present: Kent Pratt, Kevin Smith, J.J. Johnson-Smith, Robert Tittlemore, J.M. Lord, Jeff McCumber, Pat Farnan, John Milburn, Brian and Melissa Peters

I. Call to Order:

Chairman Herrmann called the regular meeting of the Planning Board to order at 7:36 pm.

I. APPROVAL OF MINUTES

Review of the April 20, 2011 minutes [deferred to the latter part of the meeting].

II. PUBLIC HEARINGS(S):

▶ [con't] Case No: PB-2010-049: Grocery Store/Pharmacy Project

TM# 19.2-1-60, 59, 58.11, 58.12, 58.2

Project Title: SUPERMARKET PHARMACY

Plans Dated: July 2010, Rev. 5: date 02.01.11

Agent 1: William G. Hoffman, PE of DeLuca-Hoffman Associates, Inc.

Agent 2: Joe Iuviene for the relocation of the OTB and Gallop Inn

Chairman Herrmann asked if the public had any questions or comments. Kevin Smith said that he can't wait for Hannaford to open.

Mr. Lord stated that over the past several months, Hannaford has been working with other outside review agencies on the proposed project which have resulted in several changes as outlined in a letter dated May 17, 2011 From William Hoffman of DeLuca Hoffman. [Attached] Also submitted were the following drawings: C-3.2B dated May 2011, Plan Review & Profile of Offsite Cleaning (two sheets) dated May 2011, Repairs and Replacement Storm Drain dated May 2011, C-2.1 dated 04.11.11, C-3.0, Sewer Discharge (two sheets), C-3.2, C-4.0 dated 04.11.11. DEC has classified this project as 'new' so the requirement is to install one septic system for the entire site location which includes Valley Plaza. The parking area behind the Plaza has been re-arranged. The new system will be directly discharged into the Wyomank (across Rt. 20 off Shaker Road). Mr. Lord stated that he has met with Jeff Winestock, Highway Spt. for permission to dig bore holes and per his request we have submitted and indemnification letter. This project will also require a permit from County because the bridge on Shaker Road is owned by the County.

In reference to the proposal that effluent will be pumped into the Wyomanock Creek on Shaker Road, Bob Smith asked "Can you drink this water"? Mr. Lord stated that he would not drink it but that it is fairly clean and that they have installed these systems on other sites. Trina Porte asked if there was any data from these other sites that could be reviewed. Mr. Lord responded 'Yes'. Paul McCreary stated that the treatment levels meet permitting criteria and that the DEC does monitor. Trina Porte stated that the DEC is not prompt and asked if the Town could get copies of these reports. Bob Smith asked if there were any other options that could be used for the septic discharge. Mr. Lord said yes but that this was the best option because it serves as quick dilution. There is not a lot of discharge and it is clean water. Bob Smith said that he is concerned about it. Jerry Grant asked the diameter of the drain pipe. Mr. Lord said 4 inches.

Trina Porte asked for current water test results at the Hannaford site location as the latest one submitted was dated 1993. Mr. Lord stated that he thought he sent them a while ago but will re send them.

Mr. Lord stated that the general plan is to get a conditional approval in July so that they may begin the renovation of the Valley Plaza midway through August. It will be a 4 week build out. This would allow for the demolition of the current OTB/Gallup Inn to begin in September/October and hopefully begin the foundation around October 1, 2011. It is also anticipated that OTB and the Gallup Inn will re-open around October 1, 2011.

A motion was made by Bob Smith, seconded by Trina Porte to close the public hearing at 7:54 pm and was unanimously carried.

► **Case No: PB-2011-023 :Pat Farnan [TM# 20.1-1-62]**

Project Description: Applicant is seeking Site Plan Approval to open a Sandwich Shop and retail store.

Plans Dated: 01.11.11; rev 2 03.25.11

There were not public comments offered. The public hearing was closed at 7:56 pm

III. **Regular Meeting:**

► **[con't] Case No: PB-2010-049: Grocery Store/Pharmacy Project**

TM# 19.2-1-60, 59, 58.11, 58.12, 58.2

Project Title: SUPERMARKET PHARMACY

Plans Dated: July 2010 **Rev. 5: date 02.01.11**

Agent 1: William G. Hoffman, PE of DeLuca-Hoffman Associates, Inc.

Agent 2: Joe Iuviene for the relocation of the OTB and Gallop Inn

With regard to the proposed work on County Route 5A and a siltation issue, Paul McCreary ask if a sediment basin will be proposed. Mr. Lord said "Yes. It will be located on the DPW property. The plan is to build it on their property and they will maintain it. Paul McCreary also asked if NYS was aware that the treated waste water is proposed to cross Route 20 over to a Town Road. Mr. Lord said "Yes". Paul asked if they've requested an easement for maintenance. Mr. Lord stated that they could request and easement if this is what the Town wishes. Paul McCreary said that it needs to first be determined if Shaker Rd. is a deeded road or if they the Town has property rights. Chairman Herrmann asked the clerk to contact the Town Clerk on the matter.

Mr. Lord stated that he would like to begin SEQR review. Chairman Herrmann asked Paul McCreary if he had planned on reviewing the revised SEQR that was submitted this evening. Mr. McCreary said he would review it and give the Board a summary of the project based on Part II

and will submit the summary one week in advance of the next meeting so that the Board may begin its review at its next meeting.

► **Case No: PB-2011-023 : Pat Farnan [TM# 20.1-1-62]**

Project Description: Applicant is seeking Site Plan Approval to open a Sandwich Shop and retail store.

Plans Dated: 01.11.11; rev 2: 03.25.11

The applicants explained that they have been in contact with the DOT whose recommendations were to block off the existing northern driveway and create a curb cut where the sign is currently located. This new curb cut is to serve as both ingress and egress.

Chairman Herrmann stated that the Board will need to review the revised maps at the next regularly scheduled meeting.

Trina Porte read the Columbia County Planning Board recommendations as follows:

Recommendation: The CCPB finds that this proposed action does not appear to have any significant county-wide or intercommunity impacts associated with it. Therefore, the Town of New Lebanon Planning Board may take final action on this application with a simple majority vote.

Comment:

1. Access: The CCPBN suggests that the applicant initiate contact with the New York State Department of Transportation regarding any improvements that may be necessary as a result of the proposed commercial uses.
2. Food Service: The CCPB suggests that the applicant initiate contact with the Columbia County Department of Health regarding any necessary reviews and approvals which may be required for the establishment of this restaurant use.

Ms. Farnan asked if they could get started. Chairman Herrmann stated that the Board can not review SEQR nor give final approval until the final revised maps have been submitted.

Kent Pratt, CEO/ZEO stated that he has received Ms. Farnan's application for the building renovations for the restroom and ramp for which they can begin work and that he is awaiting the kitchen plans and floor plan.

► **Case No.: PB-2010-019: Tom Hanson [TM# 7.-1-27.11]**

Request for 4 lot minor subdivision with shared driveway

Modified Maps Submission

Project title: Thomas F. Hanson Jr. & Regina G. Hanson

Date: 10.27.10 rev 04.26.11

Mr. Tittlemore submitted a document into the record entitled "Hanson's Proposed Subdivision Case No PB-2010-019 OUTLINE OF FACTS" dated May 16, 2011. [Attached]

Also, submitted into record was a revised letter dated 05.17.2010 with a diagram from the Highway Spt. depicting the approximate location of the point to which the Town maintains the road. [Attached]

Chairman Herrmann referred both of the above noted documents to the Attorney for the Town for a legal opinion on the road frontage issue. No action will be taken this evening because the conditions on the conditional approval have not yet been met.

► Case No.: PB-2011-024: RISA Management
Request for SUP and SPR: Manufacturing Business

Jeff McCumber presented the official application for Special Permit with Site Plan review as was discussed at last month's sketch plan review conference. Paul McCreary asked if there were exhaust fans vented to the outside. Jeff McCumber said: "Yes".

A motion was made by Matt Murnane, seconded by Mark Sheline to schedule the public hearing for the next regularly scheduled meeting and to refer the application for Columbia County Planning Board review. The motion carried on the following vote:

Chairman Herrmann	Aye
Jerry Grant	Aye
Bob Smith	Aye
Matt Murnane	Aye
Trina Porte	Aye
Mark Sheline	Aye
Craig Trombley	Aye

Informational: Ingram Paperny

Mr. Paperny wishes to informally discuss plans for a proposal to create a community of rent-based ecologically sound units and options for combining 4 lots into a conservation subdivision with affordable housing

Mr. Papperny stated that he has an approved subdivision dated 1987 and that in 1988 the Zone changed from RA1 – RA2 as well as the permitted uses. He asked the Board if the regulations that were in place at the time of his approval would apply if he wished to construct multi family dwelling units which were 'permitted by right' in 1987 but now require a special permit. The Board indicated that if they were already constructed back then they would be pre-existing but since they would be new, the current regulations would apply.

Mr. Papperny stated that he wishes to move in the direction of clustered housing or conservation subdivision or any other regulations that would permit and relate to a small community of rental property. He is also promoting 'green building'.

The Board indicated that clustered housing is promoted in the Comprehensive Plan and that see no issues with it.

IV. Minutes Review/Approval

In continuing discussions that took place via email last week, Trina Porte indicated that she felt that the April 2011 minutes are incorrect. She said that she did not say that Hannaford employees should "pull weeds during a smoke break" but rather that they "could pull weeds as part of their work duties". She also stated that she is offended and that she did not understand why the clerk would not believe her. The clerk stated that she compared and confirmed her notes with the notes taken by two other people that were in attendance at the April meeting. Additionally, there were numerous people who have stated that they distinctly recalled the question posed by Ms. Porte, therefore she is confident that the minutes are accurate and sees no need to alter the record. Ms. Porte asked Chairman Herrmann if the matter could be referred

to the Town Attorney. Chairman Herrmann stated that if she disagrees with the minutes she can simply vote not to approve them.

Bob Smith stated that he was offended that Trina Porte had accused him of making the remark and asked Ms. Porte for an apology. Trina Porte stated that at first she thought that maybe it was a member seated to the left of her that made the remark but then she thought it was Bob Smith who made it. She apologized to Mr. Smith for being in error.

Ms. Porte submitted a written statement of what she believes to be her actual statement at the April meeting and requested that it be entered into the record. [Attached]

Upon review of the April 20, 2011 minutes a motion was made by Bob Smith, seconded by Mark Sheline to approve them as submitted. The motion carried on the following vote:

Chairman Herrmann	Aye
Jerry Grant	Abstained
Bob Smith	Aye
Matt Murnane	Aye
Trina Porte	No
Mark Sheline	Aye
Craig Trombley	Aye

V. Adjournment

The meeting adjourned at 9:35 pm.

Respectfully submitted,

Cissy Hernandez
Planning/Zoning Clerk

**HANSON'S PROPOSED SUBDIVISION
CASE NO.: PB-2010-019
OUTLINE OF FACTS
MAY 16, 2011**

This information is provided to Chairperson Ray Hermann and the New Lebanon Planning Board (NLPB) members following the actions taken by Acting Chairperson Trina Porte and the (3) member Board present at the April 20, 2011 Planning Board meeting regarding the proposed Hanson Subdivision (PB-2010-019).

We, the "Concerned Residents of Hill Road" (CRHR), feel that the "conditional approval" granted to the applicant at that meeting was in our view premature and without benefit of a comprehensive review of the current zoning and subdivision laws and full consideration of all the facts pertaining to this proposed subdivision.

We have been told by the Planning Board Clerk, Cissy Hernandez, that we will not be provided an opportunity to address the board about our collective concerns regarding this case on May 18, 2011 since the "public comment" for this case was closed at the April 20, 2011 NLPB meeting.

It is unfortunate that we, the "Concerned Residents of Hill Road", as tax paying and law abiding citizens of the Town of New Lebanon have to retain legal counsel to uphold our rights in light of the new zoning regulations recently enacted to ensure that the letter of the law is upheld and for our voices to be heard.

We have retained Michael Madison Esq., from Canaan, NY as our Counsel. Michael needs time to review the facts and documents pertaining to this case. As a courtesy, Michael has requested that a final approval regarding this case be postponed for a short time while he prepares his case. He wishes to schedule a meeting with the NLPB within a two to three week time frame. Your consideration in this matter is greatly appreciated.

HISTORY OF SUBJECT PROPERTY

1. Hill Road, formerly Old Gale Hill Road, is a Town of New Lebanon public gravel road that intersects with Route 20 to the north in Rensselaer County and dead ends at the Tittmore/Hanson property line to the south. Research of public records including the Town of New Lebanon Highway Maps, circa 1942 & 1991, and the 1983 NYSDOT Highway Mileage List all confirm that 0.32 miles (1690 LF) of Hill Road is maintained by the Town of New Lebanon Highway Department south from the Rensselaer/Columbia County line.

The "apparent county line" is called out at the northwest property line on the *attached* "Survey Map for Deborah Kaback, dated January 7, 1987 prepared by Robert Ihlenburg, PLS. *Reference attached letter from Edward Peck, PE the Director of the*

Columbia County Department of Engineering to Mr. David Johansen, dated January 27, 1992 for more information.

The approximate 0.75 ± mile section of "Old Gale Hill Road" beyond the Tittmore property to the south was abandoned in the 1930's where it once connected to Gale Hill Road at the former Howard Reep residence. The abandoned road has since reverted back to the property owner(s) of record at that time, Edmond A. Komat.

Mr. Komat owned the property on both sides of the abandoned section of Old Gale Hill Road when he subdivided the property into (2) parcels in the 1950's (?). The parcel on the west side of the abandoned road (63 ± acres) was sold to Jefferson (deceased) & Hiram Greene which was later subdivided to include the subject property currently owned by the Hanson's, the Tittmore's and Jack Carlic. The existing stone wall along the west side of the abandoned road was used as the current property line of Hanson/Spinosa. The parcel on the east side of the stone wall, including the abandoned road, then became the property of current owner, Joseph Spinosa.

Reference survey map of "Land of F. Ilona Hanke" for Carol and Joseph Spinosa, prepared by Frank Ambrosio, LS., land surveyor dated August 8, 2002.

Reference survey map, Parcel No. 1, 2 & 3, for Jefferson D. & Hiram Greene prepared by Frank Ambrosio, land surveyor dated 7/8/78.

2. Robert & Cathi (deceased) Tittmore purchased the existing house built by Mr. Komat in 1950 with 10.166 acres of property from Jefferson (deceased) & Hiram Greene on September 30, 1978. This parcel of land (Parcel No. 2) who subdivided from the 63 ± acre parcel of land described above.

Deed for this property (attached) was filed with Columbia County on October 10, 1978. Reference survey map, Parcel No. 2, for Jefferson D. & Hiram Greene prepared by Frank Ambrosio, land surveyor dated 7/8/78.

3. Hanson's property (40.06 ± acres) was purchased from Jefferson (deceased) & Hiram Greene (Parcel No. 3) by David & Judy Johansen around 1980(?). This 40.06 acre parcel was a woodlot that sold for \$12,000 due to limited access (25.8 LF) and no road frontage at the dead end of Old Gale Hill Road, now Hill Road.

Reference survey map, Parcel No. 3, for Jefferson D. & Hiram Greene prepared by Frank Ambrosio, land surveyor dated 7/8/78.

DEVELOPMENT OF SUBJECT PROPERTY

1. Dave Johansen clear-cut approximately 40% of the property for his firewood business before constructing a 650 LF ± driveway and installing a modular home in 1985. This driveway and most of the cleared land slopes downhill to the Tittmore's property and to Hill Road. The cumulative development of this property over the last 30 years has caused significant flooding and damage to the neighboring downslope properties and to the Town maintained portion of Hill Road. *(See attached photo's)*
2. January 19, 1989 – Dave Johansen submitted an application to the NLPB for a 5-lot subdivision his land but was denied due to lack of road frontage. *(I do not have in my possession any documentation except for reference to this by Planning Board member Martha Shirmer from attached Meeting Minutes dated January 22, 1992).*
3. June 16, 1991 – Dave Johansen applied for a building permit for a “Barn”. In the following months, I observed the building of this structure including a new drilled well and the construction of a new septic system installed adjacent to the new building.

In October 1991 *(see attached letter dated October 15, 1991)* and again in person on November 4, 1991, I reported this to the New Lebanon Zoning Enforcement Officer, Phyllis Hulbert, that it was obvious to me and should be to anyone having the slightest knowledge of construction of buildings, that he was not building a barn but that he had built a garage for storing and repairing his construction equipment (backhoe, bulldozer and dump truck) and two rental apartments. Phyllis finally did a site visit on November 7, 1991 Planning Board Meeting.

(See attached handwritten letter dated November 7, 1991 from Phyllis Hulbert to the NLPB with a copy of the “Building Permit dated June 19, 1991, including several photo's taken by Phyllis Hulbert showing the structure that was constructed. These photos clearly show that a barn was never built and that the earlier condition had been violated. A cursory glance at the attached building permit dated June 19, 1991 also shows the “garage/apartment” crossed out and “Barn 70 x 30 listed as “Purpose” and this document is signed by the New Lebanon Zoning Enforcement Officer, Phyllis Hulbert).

4. January 22, 1992 – Dave Johansen applied to the NLPB to approve a “use variance” for “two apartments in attached building”. *The Board failed to note that their earlier approval was for a barn, not a building.* When asked the question at this meeting, Dave Johansen admits to the Board that he has already “framed in” the two apartments and that he has installed a septic system! The NLPB members voted to “table the application” and to have the Town Attorney resolve the issue of the existing road frontage. *(See attached NLPB Meeting Minutes dated January 22, 1992).*

5. February 26, 1992 – NLPB continued discussion regarding a “use variance” for “two apartments to an existing barn” with the Town Attorney present to discuss the road frontage issue. *No such “barn” structure was built. Pictures were supplied to the NLPB by the Zoning Enforcement Officer showing that a residential building, not a barn was constructed, so the Board had visual evidence that their earlier condition had been violated.* The NLPB members voted 3-3 regarding whether to deny the application or not; and recommended the Zoning Board of Appeals walk the property (*See attached NLPB Meeting Minutes dated February 26, 1992*).
6. March 5, 1992 - Zoning Board of Appeals Meeting to discuss the “use variance for two apartments to an existing barn”. *During this meeting, Johansen represented to the Board that one of the two apartments was for his elderly parents who needed a place to live. His parents never moved into the house.* Following discussion regarding the legality of a second residential structure on one lot and road frontage issues, the Board voted to grant an “area variance for (2) Single-Family houses on their property” based on hardship created regarding road frontage on a dead-end lot. The Board failed to note that Johansen had not complied with the terms of the earlier approval. (*See attached Zoning Board of Appeals Meeting Minutes dated March 5, 1992*)
7. Spring 1992 - Dave Johansen tore out the interior framing and plumbing to re-construct the building from the two-unit apartments that he had previously built to a single unit apartment to comply with the variance granted for this building. Dave Johansen also altered the flow of water from the ditch line following the east side of his existing driveway to discharge onto the Tittamore property by installing a cross-culvert under his driveway, causing extensive damage including a flooded basement and killing good timber trees on the Tittamore woodlot where it continues to flow today! I reported this to the New Lebanon Zoning Enforcement Officer (Phyllis Hulbert) but she failed to investigate or to take any action. I called Doug Clark, Town of New Lebanon Engineer, to do a site visit. Doug Clark told me that I should retain an attorney and file a civil suit against the Johansen’s which I could not afford to do at that time.
8. In mid 1990’s, Dave and Judy Johansen’s separated – Judy moved to Tennessee with her children and Dave remained here. Around 2003, they reconciled and Dave decided to move to Tennessee to live. Before he left, he illegally converted his modular home into two apartments by finishing his walk-out basement into another apartment. He then rented (3) apartment units, in violation of his variance for (2) single-family houses previously granted. This condition still exists today even though I have reported this issue to both the previous and current Zoning Enforcement officer’s, Stanley Koloski and Kent Pratt respectively, on several occasions.
9. July 21, 2004 – Robert Ihlenburg, surveyor and acting as “Representative for Dave Johansen”, once again petitions the NLPB for a (4) lot subdivision. Ray Hermann, Planning Board Chairman, tells Mr. Ihlenburg that “with no existing road frontage a variance would be needed”! This is the same Planning Board Chairman who chairs

the NLPB today (*See attached Planning Board Meeting Minutes dated July 21, 2004*).

10. October 2010 – Dave & Judy Johansen sold the property to Thomas & Regina Hanson.

CURRENT SUBDIVISION PROPOSAL OF SUBJECT PROPERTY

There are several issues with the proposed subdivision plans provided to the NLPB by the applicant that have been ignored or overlooked to date, including:

1. The subdivision property has no “road frontage” on any portion of the existing Town road. The Town of New Lebanon maintains Hill Road to the property pin located at the corner of the Tittlemore/Hanson property (*as described in the attached letter from Jeff Winestock, Town of New Lebanon Highway Superintendant, dated May 2, 2011 as requested by the NLPB at the April 20, 1011 meeting*) and this has been the case by the three former Town Highway Supervisor’s since I moved here in 1978. This is also the “maintained” point referenced in the *attached letter from Edward Peck, PE the Director of the Columbia County Department of Engineering to Mr. David Johansen, dated January 27, 1992*.

The Town of New Lebanon Highway trucks and equipment have plowed or maintained the road to the above referenced “maintained” point and have backed into the Tittlemore’s driveway to turn around since the Tittlemore house was built by Ed Komat in 1950, *as described in the attached letter from Robert Tittlemore, dated April 19, 2011 to the NLPB for the April 20, 2011 meeting*.

2. The only access to the subdivision property from Hill Road is via the remaining ROW that extends 25.8 LF beyond the property pin located at the corner of the Tittlemore/Hanson property *described in the above referenced letter by Jeff Winestock and further documented in the attached Tittlemore and Spinosa property surveys*).

The property line bearings and distances shown on subdivision plan include many factual errors and are inconsistent with currently filed subdivision maps and property survey maps; stamped and certified by Frank Ambrosio, LS (Licensed Surveyor) and the accompanying deeds of abutting property owners to the north and east of the Hanson property and the Hanson property. (See attached Tittlemore and Spinosa property surveys and copy of the filed Deed for the Tittlemore property).

I have discussed these errors with both Frank Ambrosio and Hanson’s surveyor, Brian Holbitter, PLS and I will meet with Brian on May 20, 2011 with the documentation referenced above to discuss the inaccuracies that exist.

I witnessed the removal of the first two property pins (iron pipes) at the northeast corner of the Johansen property by Dave Johansen on two different occasions during the 1990's. These are the same two pins that would measure the 25.8 LF access to the Hanson property from Hill Road as shown on the original subdivision survey map.

The first pin removal occurred when Johansen's was moving his construction equipment (bulldozer & backhoe) in and out of the property with a low-boy construction trailer. The trailer initially ran over the pin with the back axles which bent the pin; Johansen then pulled it from the ground. Johansen later reset a piece of rebar at the corner without the use of any survey equipment. When I measure the distances from my other two pins along Hill Road to this location, I find that the reset pin is at least 1.5' from its original location. This is the same pin now located and shown by Brian Holbriiter as the corner of the Tittmore/Hanson property on the Hanson proposed subdivision plan in front of the Board.

The second pin (iron pipe) removed by Johansen was located at the top edge of the existing stone wall that was the corner of the Spinosa/Hanson property. This pin was removed when Johansen removed approximately 15' of the existing stone wall south to excavate a ditch across the abutting property without authorization by then property owner; Ilona Henke (now deceased). The ditch excavated by Johansen was an extension of the swale formed along the east side of his driveway that conveyed the runoff water across Hill Road onto the abutting property currently owned by Spinosa.

3. The revised subdivision plan, dated April 26, 2011 shows a second cul-de-sac located along the Hanson's private driveway, as discussed at the April 20, 2100 meeting. This cul-de-sac is located at the northeast corner of the Hanson property specifically for the Town of New Lebanon Highway trucks and equipment to turn around. This new cul-de-sac would require an extension of Hill Road with ROW for access by the Town of new Lebanon Highway Department trucks which would require the subdivision to be classified as a **"MAJOR SUBDIVISION"**; requiring a 60' ROW which the Hanson's do not own.
4. The NLPB has not adequately addressed or considered the key concerns regarding safety of all of the residents and landowners on Hill Road, relative to the condition of the existing Town road.

A site visit by Board members will reveal that Hill Road is a narrow (12' ± wide) gravel road that is on a constant steep uphill grade (exceeding 10% with some grades in excess of 15%); including (2) blind curves with very limited site distance located at the steepest sections of the road from the Columbia County line to the Hansen property. Two midsize cars cannot safely meet anywhere on this road in the summer months and it is impossible to meet another vehicle during the winter months when the cleared and plowed road width is only 9 to 10' wide in most places.

- The snow and ice covered road is treacherous from late November to April due to the steep grades and there have been several accidents that have caused property damage in the 33 years that I have lived on this road. It is common knowledge to all who live on this road and must negotiate up the steep snow and ice covered grades to get to their driveways, that without 4-wheel drive, you must build up a good head of speed at the bottom of the hill as you enter Hill Road from Route 20. This causes a vehicle to be traveling at a rate of speed that is too fast for safely stopping if meeting an oncoming vehicle anywhere on the road, but especially dangerous at the first blind left curve above the Kaback/Korn driveway.

Those who lose traction and cannot make it to their respective driveways are forced to either abandon their vehicle in place, thereby blocking the road to other vehicles; to wait for the Town to plow and/or sand the road or to now back down the road. This scenario most often occurs during heavy snow conditions and in the darkness of night for residents returning from work after 4:30 pm, December thru February, and the driver risks sliding off the road into a snow bank or ditch or be involved in an accident with the next vehicle attempting to make it up the hill. There are several days each winter when most vehicles cannot make it up the hill and are forced to leave their vehicles illegally parked on private property at the old rail bed at the bottom of the hill. There are also many vehicles that have required tow trucks to be removed from snow banks or ditches over the years since I have lived here.

- Because Hill Road is located in West Lebanon and we are at the outer extremities of the Town of New Lebanon Highway Department's roadway network that they plow and maintain, we are one of the last roads to be plowed or sanded during any given storm event. This is not to find fault with the Highway Department because overall they do a good job; but it is simply stated as a matter of fact.
- Local and community residents and their children often walk, ride bicycles or go tobogganing in the winter along Hill Road and are put at risk of being struck by a vehicle due to the existing condition of the road with the volume of traffic currently using Hill Road. This is especially true since the NLPB approved the Johansen apartment in 1992. There are currently at least (6) vehicles making multiple trips up and down the road that belong to the tenants or others who frequent these apartments daily.
- Approving a 4-lot subdivision without making major improvements to Hill Road by widening the full length of the Town road from Route 20 with adequate drainage to meet the current Town Highway Design will only increase the odds of a serious accident occurring on the existing road without such improvements.
Could the Town be held liable in a lawsuit as a result of a serious accident causing bodily injury or death?

In our opinion, this should be a requirement of the applicant's subdivision approval process, and in this case Mr. Hanson's responsibility to post a construction bond acceptable to the Town Engineer to fund such roadway and drainage improvements to Hill Road before the application is approved.

I offer the following examples of safety concerns by all traffic traveling on Hill Road:

- The US Post Office stopped all rural delivery on Hill Road during the winter of '04 – '05 following two accidents involving the rural postal carrier and one of Dave Johansen's tenants. In the first instance, the postal carrier was nearly forced off the road into a snow bank to avoid an accident when the other driver couldn't stop; the other driver lost control of his truck and ran into the ditch. In the second instance, the same driver collided head-on with the postal carrier causing damage to both vehicles. (*Reference letter from Postmaster of East Nassau Post Office, Betty Sundstrom, dated March 23, 2005*)
- New Lebanon Central School District will not allow school buses to pick up children living on Hill Road unless they are transported or walk to the intersection of Hill Road and Route 20.

This intersection is an extremely unsafe place for school-aged children to wait for a school bus. These buses can routinely be delayed by 10 – 15 minutes or more in the winter; leaving the unattended children exposed to pedophiles and other deviant individuals driving by. Recall that Louis Lent, the individual arrested and convicted for the kidnapping and murder of Sarah Ann Woods in the 1980's, was a man who lived in Pittsfield, MA and probably routinely drove past this intersection at a time when my children were waiting at this bus stop!

This is also an extremely dangerous intersection due the high traffic volume on Route 20 and the lack of adequate site distance for the Route 20 eastbound traffic approaching a stopped school bus at the Hill Road intersection for picking up or dropping off children.

For the same reason, it is an extremely dangerous intersection for all traffic exiting Hill Road onto Route 20; especially those making a left turn to access Route 20 westbound! And the snow and ice covered intersection on an upgradient apron exceeding $\pm 5\%$ to access Route 20 during the winter months compounds the problem and increases the chance of being broadsided if you are unable to gain traction quickly enough to get out of the way of oncoming traffic traveling at 55 MPH +.

This intersection also includes both legs of the Route 66 wye- intersection with Route 20 which has been the site of many serious accidents in the years that I have lived here.

- The garbage trucks that service the residents on Hill Road often stop the service during the winter months due to the unsafe road conditions.
 - Fuel oil and propane deliveries often have to be coordinated between the homeowner and the delivery companies because the road is unsafe for their trucks on winter storm days.
 - Fire trucks and other emergency equipment would have the same problems if needed during a winter storm event.
5. The NLPB has not adequately addressed the problem of stormwater and runoff drainage water from the subdivision property that will surely cause additional damage and distress to the abutting properties and to the Town Road.

The existing culverts located on the Hanson property are undersized (12" diameter) and not in compliance with Chapter 179, Subdivision Regulation, Section 8 "Drainage" per the Town Construction Standards as confirmed by Hanson's Surveyor at the April 20, 2011 NLPB. We find Mr. Holbriter's comment to the Board that night stating that "if there is any runoff it will be diverted" unacceptable. The applicant has no stormwater analysis or drainage calculations regarding the subdivision's impact to make such a claim and furthermore, Mr. Hanson will have no incentive to correct any deficiencies after the fact! These same culverts have surcharged in the past during storm events causing excessive flooding damage to abutting property owners and Hill Road.

Does Jeff Winestock have records dating back to 1980 that might reflect the costs of taxpayer dollars to repair the damage done to the Hill Road due to the excessive runoff onto the road since Johansen built his driveway without the oversight of the Town?

Considering the open space created by the clear-cutting on this property by Johansen in the past, the steep slopes, and the proposed development of two additional lots with homes and driveways that will necessitate additional drainage ditches that will add to the already inadequate drainage infrastructure downstream, the Board should require that the applicant provide an engineered stormwater analysis and drainage calculation for the proposed subdivision with provisions for all required stormwater, erosion and sediment control installed before beginning construction of any driveways, roads or other improvements..

6. The NLPB has not adequately addressed the existing and proposed septic systems for the subdivision property. Both of the installed systems for the two existing houses currently on the property are inadequate and have been the source of "breakouts" of effluent in the past, as I have witnessed. This effluent collects with the stormwater runoff onto abutting properties creating a health hazard.

The property is located on steep terrain, with 80 – 90% exceeding 15% grades and more than 50% of the entire property ranging from 20 - 40% grades, calculated using the contours shown on the proposed subdivision plan. The soil conditions on the property are generally poor with a high groundwater table and ledge rock close to the surface in many areas, thus severely limiting or prohibiting most of the remaining property from development. If an engineered system can be sited, the cost to design and install these systems is expensive. The applicant should be required to show the proposed building sites with the wells and approved septic system designs after conducting perc tests and deep-hole testing witnessed by the Columbia County Board of Health to determine the feasibility of this proposal.

7. The NLPB has failed to comply with recommendations made by the Town of New Lebanon's Engineer's review letter dated February 16, 2011. In his review, Paul McCreary, PE from Morris Associates, addressed several issues that have not been acted upon including:
 - The "recommendation that NYSOPRHP be contacted and requested to comment on the need for an Archeological investigation of the site" because "the project site is located entirely within an archeo sensitive area". (See Item #2)
 - The establishment of a Home Owners Association was discussed at a prior meeting? "and that the HOA documents should be reviewed by the Planning Board and the Town's Attorney" prior to filing". I was not notified of any NLPB business related to this subdivision prior to receipt of a certified letter from the applicant dated February 3, 2011. (See Item #3)
 - Several requirements to be included in the subdivision plan have not been resolved by the applicant. Paul also suggests that the existing buildings may not in compliance with current zoning regulations setbacks and that approval of these plans would create illegal and nonconforming lots. (One existing shed shown is too close to the property line and a second shed not shown on the plan is on the Lot #2 property line shown on the proposed subdivision plan. Why was this building not included by Hanson's surveyor? (See Item #4)
 - Cul-de-sac road radius should be 75' (or 100'?). Revised site plan shows a 60' radius at the beginning of the driveway. (See Item #5)
 - Drainage issue requirements including size & invert elevations of existing culvert pipes, drainage calculations by a NYS Licensed Professional Engineer and information regarding proposed drainage ditches have not been complied with by the applicant. (See Item #6)
 - Driveway grades (See Item #7,)Drainage ditches (See Item #8), Alignment at intersection with Hill Road (See Item #10), Perc tests ((See Item #11) and Erosion & Sediment Plan (See Item #12) all have not been complied with by the applicant.

8. The NLPB should scrutinize and take another good look at the omissions and/or falsified information provided by the applicant on the EAF application that was accepted and approved at the April 27, 2011 Planning Board Meeting.

Specifically, I direct your attention to the following:

Part 1

Section A: Site Description, Question #2, #3A, #4 & 4A, #10, #16, #17

#2 - Please note that the applicant has inaccurately described the agricultural use of the property which is "0" acres.

#3a – Please note that the applicant has inaccurately described the property as 95% Well Drained and 5% Moderately drained with 0% Poorly Drained.

I direct your attention to the attached letter from the Town of New Lebanon Enforcement Officer to Mr. David Johansen, dated August 13, 1984 regarding "Perc Test" done on the subject property on July 31, 1984. He describes the 6' deep hole as follows: "12" of permeable soil and 3.5' of clay and stone. At 4.5' level, water was encountered."

He continues to describe the results of the two perc test holes as follows: "Two test holes were also dug, and resulted in a perc of 0" in 40 minutes. He goes on to explain that because of these poor soil conditions, a typical sewage system would not function properly and he defers to the "New York State Health Department – Waste Treatment Handbook". He also requires Mr. Johansen to schedule additional perc tests after the new field is installed. I could find no evidence in the Johansen files at the Town Hall indicating that these additional perc tests were ever done.

These tests were conducted on what would have been the driest time of the year (mid-summer) and there was still groundwater found at 4.5' below grade. These are the same soil conditions that I have found on my property over the years.

Section B: Project Description, Question #1

Section C: Zoning & Planning Information, Question #2 thru #9, #11, #12

Part 2

Section Impact on Land, Question #1, #5

In preparing this letter, I have reviewed current Town of New Lebanon Zoning Ordinance, effective September 30, 2010 and the Subdivision Regulations, Chapter 179. It would appear that the Board has overlooked the requirement specific to RA-5 districts found in the Zoning Ordinance under Section 6: DISTRICT REGULATIONS; Paragraph 6.1.1.1 and 6.1.1.2. The proposed subdivision meets these requirement if the Board finds that the "subdivision contains slopes of

greater than 20% occupying more than 25% or more of the site" which is evident based on the contours provided on the plan.

I would ask that the Planning Board table the final decision on this subdivision until all of the issues presented here are resolved and that any factual errors will be corrected by the applicant that is acceptable to the Town Attorney and Town Engineer before reconsidering any decision regarding this subdivision plan.

The speed at which the Planning Board has attempted to handle this matter shows a disregard for the history of the Johansen's misrepresentations to the Board, Town Zoning Laws and the safety of the legitimate Hill Road citizens. Thank you for your consideration in this matter.

Respectfully Submitted,

The Concerned Residents of Hill Road:

A handwritten signature in cursive script, appearing to read "Robert M. Tittlemore".

Robert M. Tittlemore, President
Al Korn and Deborah Kaback
Brain Peters and Melissa Peters
Joe and Carol Spinosa
Jack Carlic



Town of New Lebanon
PO Box 328
New Lebanon, NY 12125

Highway Department

Phone: (518) 794-8919
Fax: (518) 794-9694

Margaret Robertson
Town Supervisor

Jeff Winestock
Highway Superintendent

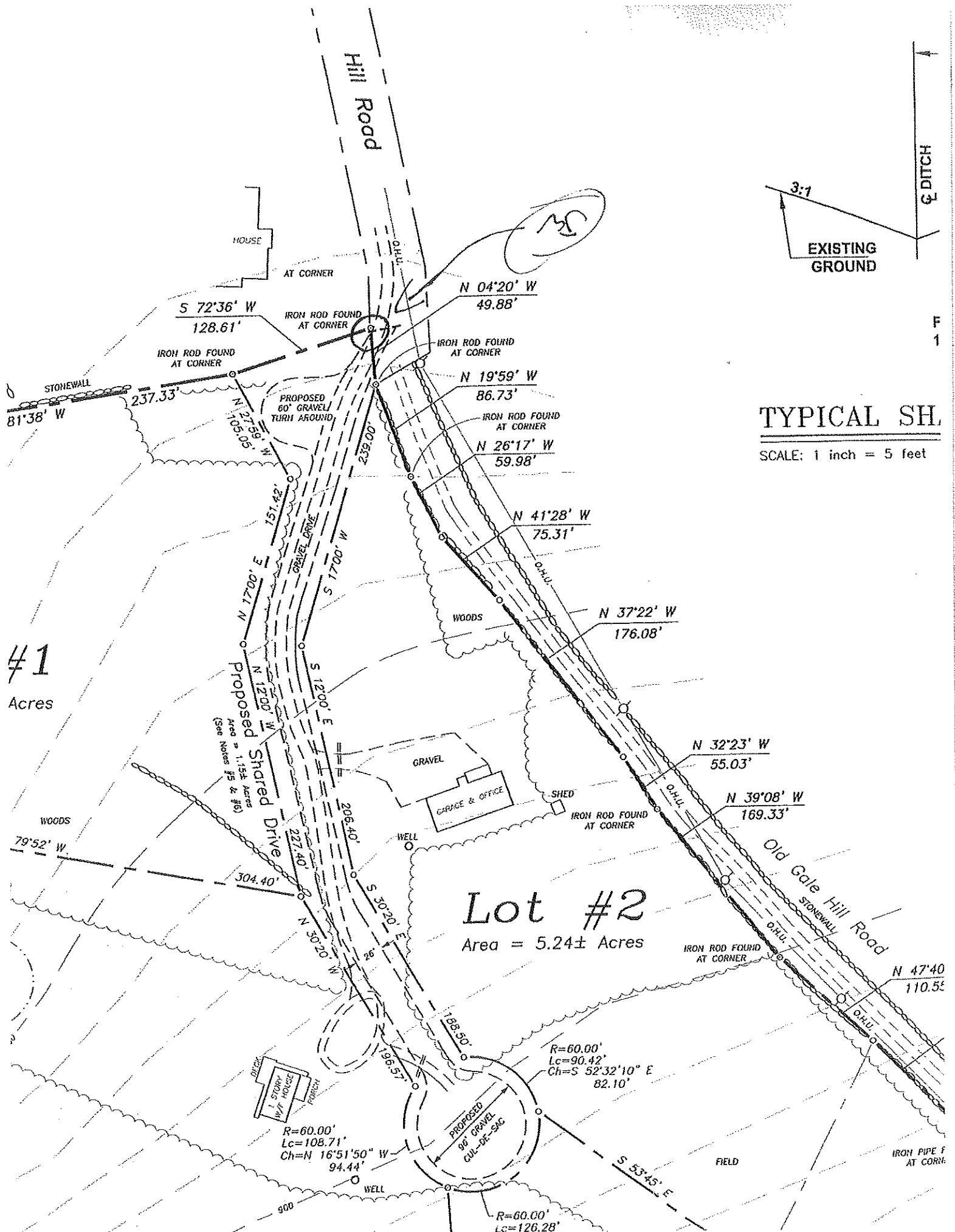
May 17, 2011

To Whom It May Concern:

Please allow this communication to replace my letter dated May 2, 2011. The Town maintains Hill Road up to the approximate point that I have depicted on the attached survey map.

Sincerely,


Jeff Winestock
Highway Superintendent



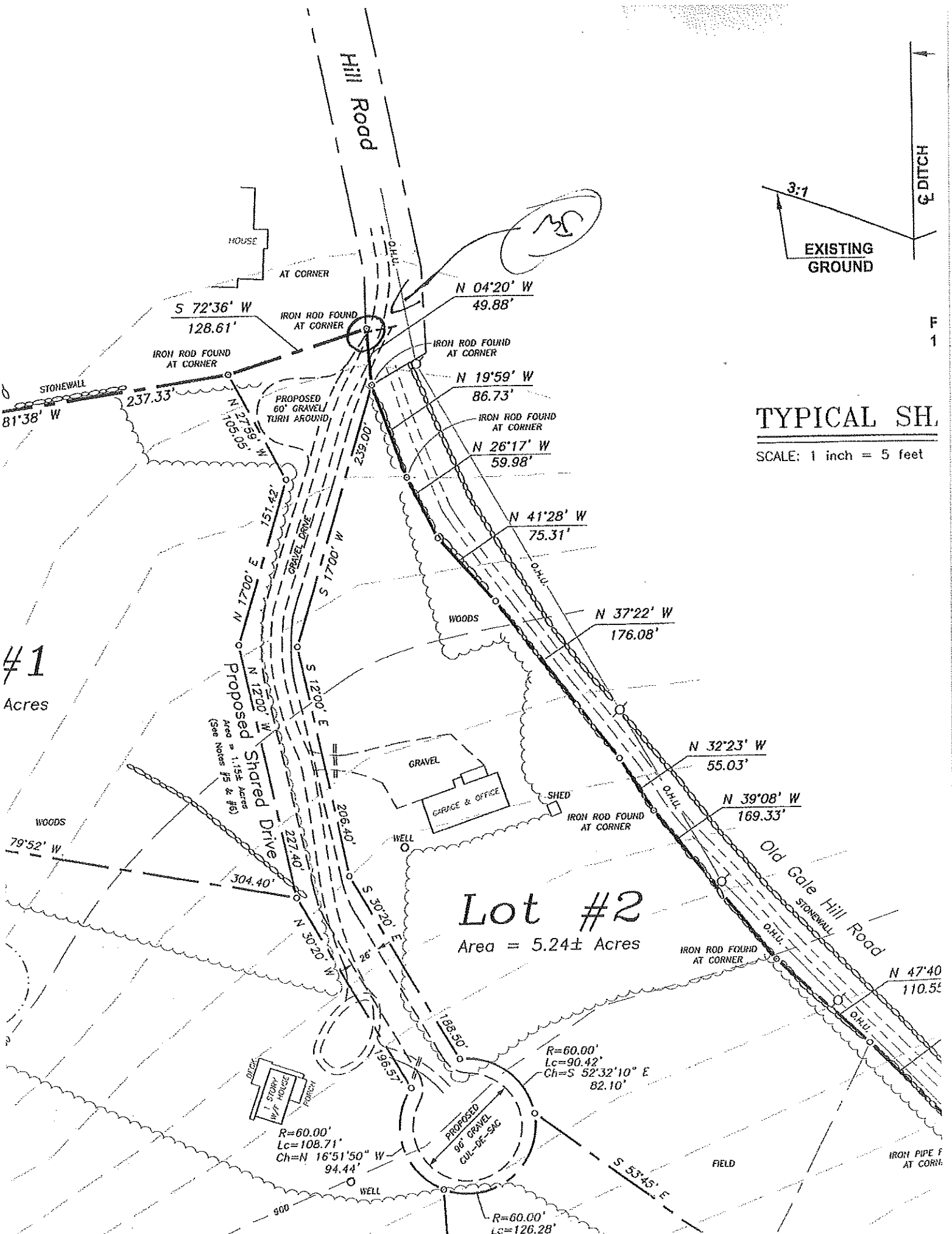
#1
Acres

Lot #2
Area = 5.24± Acres

TYPICAL SHL

SCALE: 1 inch = 5 feet

F
1



MAY 18, 2011 SUBMITTED AT MAY 2011 REGULAR PLANNING BOARD MEETING

FOR THE RECORD,

The April 20, 2011 New Lebanon Planning Board Minutes are **incorrect** where they quote me as having asked the representative from Hannaford if employees could pull up weeds "on their smoke break."

What I actually asked the representative from Hannaford is, if employees could pull up weeds "as a part of their work duties, rather than having a separate contractor spray weeds with herbicides."

Sincerely, Trina Porte, Planning Board Member