Village of Geneseo
Planning Board

November 16, 2011
Regular Meeting & Public Hearing

Members Present:
Sue Richardson, Acting Chair
Dori Farthing
David Woods
Claren Kruppner

Other Village Representatives Present:
Code Enforcement Officer Ron Maxwell
Village Board Deputy Mayor John Fox
Village Board Trustee Sandra F. Brennan
MRB Group Engineer, Kurt Rappazzo
Attorney J. Thomas Reynolds

Applicants Present:
Attorney Eric Dolan – 18 Wadsworth Street
Paul & Jennifer Dotterweich – 18 Wadsworth Street
Julie Belfiore – 16 Wadsworth Street
Eugene Smith – 16 Wadsworth Street
Steven Struble & Serena Kniffin Struble – 6 Wadsworth Street
Rick Vattimo – The Village Tavern – 137 Center Street

Public Present:
Jim & Lisa Kimball – 10 Wadsworth Street
Tim McMahon – 25 Wadsworth Street
Carey & Alberta Vasey – 11 Wadsworth Street
Wes & Lynn Kennison – 8 Wadsworth Street
Glen McClure – 19 Wadsworth Street
Rosette Ptak – 13 Wadsworth Street

1. Meeting Opened:

Acting Chair S. Richardson opened the meeting at 4:00pm.

2. Review of Minutes:

The October 26, 2011 regular meeting minutes were reviewed. C. Kruppner moved to approve the minutes as amended. D. Farthing seconded the motion. The motion passed with ayes from S. Richardson, D. Farthing, D. Woods and C. Kruppner.

3. MRB Group Engineer:

Secretary Mack introduced Kurt Rappazzo, MRB Group Engineer who will now be the Planning Board's engineering representative from MRB Group. MRB Group Engineer Scott DeHollander has taken a new position with the Town of Greece. The Board welcomed Kurt and Kurt stated that he looked forward to working with the Board.

4. Code Enforcement Office:

October 2011

Building Permits	2
Rental Housing	1
Sign Permits	1
Violations	3

CEO Maxwell stated that CEO O'Keefe, Planning Board representative Claren Kruppner, Kircher Construction representatives Jim Olverd and Jon Flannery and himself made a final site

inspection at the Hampton Inn property on Monday. All site work has been completed and the ponds are working correctly.

5. Town Planning Board Update – David Woods:

The Town Planning Board met on Monday, November 14th.

- Final Approval was granted for the JMS Farms, LLC (Sawyer) two lot subdivision on Reservoir Road (Steve Sawyer is currently building a house on the lot. The private drive to the residence has been named Belwood Drive).
- Concept and Preliminary approval was granted for a two lot subdivision on Lakeville Road (Brown).
- Geneseo Curves located at 120 Court Street was granted a permanent special use permit.
- Sally Roberts was granted a five year special use permit for a home massage therapy practice at 4645 Porter Road.

6. Livingston County Planning Board Update – David Matthews:

Mr. Matthews was not present, but had sent an email stating that there was no new business to report.

7. Village Attorney J. Thomas Reynolds
Special Use Permit Requests for single family to two family:
Paul & Jennifer Dotterweich: 18 Wadsworth Street
Rodney & Julie Belfiore: 6 Wadsworth Street
Steven Struble & Serena Kniffin-Struble: 6 Wadsworth Street

Attorney Reynolds stated that since the last Planning Board meeting, he has had a chance to review the law and the applications which are to be presented to the Board tonight (Belfiore, Struble and Dotterweich which is scheduled for Public Hearing). At this time, the Board first has to decide whether or not they have the authority to grant these special use permit requests based on the Village Board of Trustees eliminating the wording "dwelling, two-family" from the uses requiring a special use permit in Section 130-130 in the R-1 Residential District and in Section 130-131 in the R-2 Residential District on October 3, 2011. On October 21, 2011, the Village received a letter back from the Secretary of State stating that the local law had been filed in that office. The Planning Board set the public hearing for tonight for the Dotterweich case at their October 26, 2011 Planning Board meeting.

The Planning Board also has to decide whether or not the applications before them have a vested right. Attorney Reynolds advised that as far as he can determine, the applicants do not have a vested right.

The Board and public asked for clarification on "vested rights". Attorney Reynolds stated that the applicant must show proof of their prior substantial investment in the property besides the purchase of it. Regarding the Dotterweich case, nothing has been documented in the minutes confirming this.

Acting Chair Richardson asked how the Board should proceed. Attorney Reynolds stated that this is what the Board must determine. D. Woods asked for confirmation that this is true for all three cases before the Planning Board this evening. Attorney Reynolds stated that it is. However, Attorney Reynolds stated that the fact that the Belfiore and Struble cases have been postponed by the Planning could be challenged as it could be considered an unreasonable delay.

Regarding the Dotterweich case, the original Dotterweich application was received on April 13, 2011. On May 25, 2011 the Dotterweich case was on the Planning Board agenda for discussion. At that meeting, the Board set a public hearing date for June 22, 2011. At the June 22, 2011 Public Hearing, the Board agreed to leave the written comment period open until close of business on July 6, 2011, and give Attorney Dolan until close of business on July 13, 2011 to

respond. On July 20, 2011 the Planning Board met at a work session to discuss any written comments they received for or against the Dotterweich proposal. At the regular Planning Board meeting on July 27, 2011 the Planning Board denied the Dotterweich special use permit.

An Article 78 lawsuit was filed against the Village. October 3, 2011 the case was heard in front of Judge Wiggins at the County Court level. On October 7, 2011 the Village received a copy of the decision from Judge Wiggins dated October 3, 2011 with a letter of transmittal dated October 6, 2011. On October 26, 2011 at the regularly scheduled Planning Board meeting, the Board met with Mr. Dotterweich. At that time tonight's public hearing was scheduled.

Acting Chair Richardson stated that she did not believe the Planning Board was using delay tactics in any of the cases before them tonight. In regards to the Dotterweich case, the delay was a result of the application arriving on the same day as a Planning Board meeting and then the next regularly scheduled meeting not being for approximately another month after that. The Belfiore and Struble cases were delayed because the Planning Board was waiting for the outcome of the Dotterweich Article 78 proceeding that they thought would give them guidance.

At this time, Mr. Eugene Smith, representing Julie & Rodney Belfiore – 16 Wadsworth Street, read from the Belfiore's letter dated July 27, 2011 and received by the Village on July 28, 2011:

"We are submitting a special use permit application for consideration regarding our current residence at 16 Wadsworth Street.

Currently, our neighbors at 18 Wadsworth Street have their home for sale and have applied for a special use permit to potentially utilize the home as a 2 family dwelling. The approval of this action could possibly change that dwelling into rental property. Our other neighbors at 14 Wadsworth Street are already a rental property. Thus, our single family home would be between multi-family or rental properties along with several other rental properties to the south of our house.

If our application of this special use is granted, it would simply allow us that future option to sell or utilize this property in a manner that is appropriate and similar to at least five other homes on the west side of Wadsworth Street.

Thank you for your time and consideration of this matter."

At this time, Attorney Dolan stated that the Dotterweich case should be distinguished from the others as the Article 78 decision was pending when the Village law changed. Attorney Dolan pointed out that the Dotterweich's had a decision of denial and then filed Article 78 lawsuit against the Village. Judge Wiggins of the Livingston County Court found that the Board's denial was not supported by substantial evidence and remanded the case back to the Planning Board for further public hearing. Attorney Dolans asks for the Board to decide in their favor as they should have in July. He continued by stating that his client's case should not be considered a new application. He was concerned that the Village is just now mentioning "vested rights" and now is not the time to ask for this especially considering it was not mentioned at the Planning Board meeting on October 26th.

Attorney Reynolds stated that the Village Board changed the law and that this Board had not received that information; however, he has since made this Board aware of the change, and they then have to decide how to proceed.

Attorney Dolan argued that on June 22, 2011, Village Board Trustee Sandra Brennan sent a letter to the Planning Board advising them that the law was going to change; therefore he believes the Board was aware of the pending change. Attorney Reynolds agreed; however, he did not believe that this Board was aware that the law had actually changed removing the wording "dwelling, two-family" from the uses requiring a special use permit in Section 130-130 in the R-1 Residential District and in Section 130-131 in the R-2 Residential District.

Attorney Dolan argued that it has been their position all along that the Planning Board should not have denied the Dotterweich case in July and that it should not be denied now. Attorney Dolan believes that if the Planning Board had granted the special use permit in July, the right would have already been vested. Attorney Dolan also stated that he believes that if the Planning Board agrees that they do not have jurisdiction over this case, then another Article 78 proceeding will be filed. Attorney Dolan continued by stating that this process has significantly financially impacted his clients and at

this point in time to change the rules is unfair, he believes that the laws that were in place at the time of the original denial should be the ones this application is based upon.

At this time, Acting Chair Richardson asked for comments from the Board. D. Farthing suggested that the Board deal with the Belfiore case first. The Board was in agreement.

Mr. Smith stated that on behalf of his daughter and son-in-law, he does not see how there can be some houses on the same side of street that are classified differently and then this request not be allowed. Acting Chair Richardson stated that those houses in a sense were grandfathered in as they were already being utilized as rentals before special use permits were required.

At this time, Julie Belfiore entered the room.

D. Farthing noted that there was some delay in putting the Belfiore case on the agenda, but believes that is because the Dotterweich case was pending. Acting Chair Richardson agreed as the Board was looking for direction, which they believed the Dotterweich case was going to give them.

Acting Chair Richardson stated that it is not the intention of the Belfiore's to immediately turn the house into a two-family residence. They just want to have that status for the future if they want to sell the property. Acting Chair Richardson asked Mrs. Belfiore if they would consider turning their house into a two-family right now. Mrs. Belfiore stated that they love their house, but do not know what the future holds, as they have never experienced being sandwiched between two rentals. If the house at 18 Wadsworth Street becomes a two-family then they might, but that cannot be answered right now.

With no further discussion, D. Woods moved that in view of the change in the zoning law and information provided by Village Attorney Reynolds the Planning Board determines that the Belfiore's - 16 Wadsworth Street do not have a vested interest therefore the Planning Board does not have jurisdiction over the special use permit request. C. Kruppner seconded the motion and the motion passed with ayes from all.

At this time, the Board heard from Steven Struble regarding his special use permit request for a two family home at 6 Wadsworth Street. Mr. Struble stated that he believes his case is different than the Belfiore and Dotterweich case because the house was a two family and because it was empty for one year per code, it reverted back to a single family. Mr. Struble stated that he was not aware of the law change as has been previously discussed tonight. Acting Chair Richardson stated that the Village Board adopted a local law on October 3, 2011 which does not allow for two family homes in the R-2 zoning district such as Wadsworth Street.

D. Farthing asked when the property lost its status as a two family home. Per an email on file from CEO Maxwell, the property at 6 Wadsworth Street was red tagged "DO NOT OCCUPY" occupy in 2007; therefore in 2008 it lost its use as a two family home. CEO Maxwell explained that in this case, if it is going to take more than 50% of its value to rebuild it per code, it would have lost its status as a single family if it had been less than a year.

Mr. Struble was confused because the tavern on Center Street next to the fire hall had been closed for more than a year, but it did not lose its status as a tavern. The Board explained that a tavern is an allowed use in that district with a special use permit.

Mr. Smith spoke up and stated that the Belfiore house was once a two family also. Mrs. Belfiore explained that when they purchased the house, it was a two family, but they turned it back into a single family.

Lynn Kennison – 8 Wadsworth Street stated that she had always thought that 6 Wadsworth Street was a two family, but she has recently been told that it was a single family with an addition to make it a two family. She noted that there is definitely a clear distinction making the property appear to be a two family. Mrs. Kennison asked for a clarification of two-family versus multi-family in regards to the actual structure. CEO Maxwell stated that a two family would consist of two units each

having their own separate entry/exit, kitchen facility, living room, bedroom(s) and bathroom. A multi-family would consist or three or more individual units in the same building or adjacent to each other. Mrs. Kennison asked what Mr. Struble was requesting. CEO Maxwell stated that Mr. Struble is looking for two separate units.

Acting Chair Richardson asked the Board if their feelings were the same on this application as it was for the Belfiore case. The Board agreed that they were. Therefore, D. Woods moved that in view of the change in the zoning law and information provided by Village Attorney Reynolds the Planning Board determines that the Struble's - 6 Wadsworth Street do not have a vested interest therefore the Planning Board does not have jurisdiction over the special use permit request. D. Farthing seconded the motion and the motion passed with ayes from all.

Acting Chair Richardson stated that a public hearing is scheduled for 5:00pm on the Dotterweich request. However, the Board agreed to discuss the matter prior to opening the public hearing if that is the action they chose to take. Acting Chair Richardson stated that a letter has been received by the Planning Board from a resident of Wadsworth Street and from Attorney Dolan representing Paul & Jennifer Dotterweich. She also stated that Mr. Dotterweich has submitted a sketch drawing of the parking area in the rear of the property as asked for in October.

Acting Chair Richardson asked the Dotterweich's how many tenants they currently have living in the house. Mrs. Dotterweich stated that they currently have four female students renting the house. There was some concern regarding this as more than four vehicles have been seen at the property on more than one occasion. Mrs. Dotterweich stated that perhaps the tenants have had friends over.

Attorney Reynolds stated that the Board must decide whether they are going to take the same action as they did on the Belfiore and Struble special use permit requests and cancel the public hearing or go forward with the public hearing as scheduled. Attorney Dolan stated that he would like to be heard either way. He stated that his clients do have a vested interest and at the last Planning Board meeting on October 26, 2011 the change in the zoning law was not mentioned. He continued by stating that the Dotterweich's filled in the pool and paved over it allowing for parking spaces as the Planning Board had requested. Attorney Dolan stated that the Board should have known at the October 26, 2011 meeting whether or not the law had changed. He also stated that the Dotterweich's do have a vested right and have taken action on good faith as discussed at the Planning Board meeting on October 26, 2011. He does not believe that the Board had a basis for denying the request in July and there is no basis to deny it now, which is supported by case law. Attorney Dolan stated that he believes that if this request is not heard because the law has changed or if this request is denied, there will be another Article 78 filed along with a civil liability lawsuit. Attorney Dolan continued by stating that changing the rules at this point, is completely unfair especially based on the conversations that took place at the October 26th meeting.

Attorney Reynolds stated that Justice Wiggins in his decision stated that there is insufficient evidence in the record for judicial review; therefore, this Board can decide that they do not have the jurisdiction. Attorney Dolan argued that the Dotterweich's had a vested right in July, but were denied. Attorney Reynolds argued that there was no evidence presented in July, therefore they did not have a vested right, and then the law changed. Attorney Dolan argued this by stating that if the Board did not feel they had enough information in July, they could have said that, asked for it and scheduled another public hearing.

At this time, Acting Chair Richardson read Judge Wiggins decision: *"In this case, the special use being sought is consistent with the neighborhood, as nearly half of existing residences in the immediate environs are multi-family or rental dwellings. The proposed use is legal within the existing zone. The presumption here favors the Plaintiff. It appears to this Court that the Board is attempting to legislate new rules by denying a special use permit. It is not appropriate to circumvent the proper procedure by arbitrarily denying this application. In fact, the Respondent admits new rules are forthcoming to address this very situation. Nonetheless, the Board has discretion, and that discretion should only be overridden if the decision is arbitrary or capricious. While the Court disagrees with the*

decision, there is insufficient evidence in the record for judicial review concerning the Board's discretion. The Court does not know when the Plaintiffs acquired the property at 18 Wadsworth Street, but it likely was at a time when it would be reasonable to believe the special use they now seek would be summarily granted. It must be stressed that the Court must restrict its review to whether the Board has acted illegally. The Court can NOT substitute its judgment for that of the Board, so long as there is substantial evidence in the record substantiating the decision. The Court desires to respect the discretion of the Board, substantiating the decision. There is suggestion that such use does not conform with the long-term plan for the Village. There is argument that parking and driving would be issues were this special use permit granted. Substantial evidence is the standard, and the Board's discretion must be applied using that standard. The matter is remanded to the Board for further Hearing and development of evidence."

At this time, D. Woods moved that in view of the change in the zoning law and information provided by Village Attorney Reynolds the Planning Board determines that the Dotterweich's - 18 Wadsworth Street do not have a vested interest therefore the Planning Board does not have jurisdiction over the special use permit request. C. Kruppner seconded the motion. Further discussion followed.

D. Farthing stated that at the Planning Board meeting on October 26th the Dotterweich's were in the process of vesting which she thought the Planning Board was in agreement with. She wondered what everyone else thought about the actions the Board had discussed at the meeting on the 26th in regards to parking, the pool being filled in and garbage. Acting Chair Richardson stated that if the special use permit was granted it would probably only be granted for a one year time period and the special use permit would be null and void if found to be in violation with the nuisance law.

Attorney Dolan stated that if the Board is still considering not moving forward, he would like to note that this has been a long road and at the last meeting the Dotterweich's were working with the Board on good faith, and did take concrete actions on what the Board had requested at that meeting. Attorney Dolan stated that it is late in the game to say that the Board does not have jurisdiction. Attorney Reynolds stated that this is a valid argument but if the Board rejects the request that is certainly an argument that will be heard in the future.

Acting Chair Richardson noted that the following motion is on the table with a second: "that in view of the change in the zoning law and information provided by Village Attorney Reynolds the Planning Board determines that the Dotterweich's - 18 Wadsworth Street do not have a vested interest therefore the Planning Board does not have jurisdiction over the special use permit request."
The vote was as follows: Acting Chair Richardson – nay, D. Farthing – nay, D. Woods – aye and C. Kruppner – aye. The vote was tied.

Some consideration was given to having the absentee Board Member (Chair M. Griffo) called to come down to break the tie. However, it was noted that he had not been here to hear all of the discussion that has taken place.

D. Farthing stated that she believes the public hearing should be opened. The Board agreed, therefore, at 5pm Acting Chair Richardson opened the Dotterweich Public Hearing. She stated that this is a revisit on the Dotterweich special use permit request to turn the single family home they own at 18 Wadsworth Street into a two-family home. She continued by stating that the usual procedure is to go around the room and take any comments from the public, however, she believes that many of the comments have already been heard and what the Board needs is substantial evidence in support of or against the request.

Rosette Ptak – 13 Wadsworth Street asked for the difference between an apartment house and multi-family residence. Attorney Reynolds noted that in this case, what is being requested is not an apartment house or multi-family residence but a two family residence, which are two units separate from one another. CEO Maxwell added that each unit would be allowed up to four unrelated individuals.

Lynn Kennison – 8 Wadsworth Street stated that there are twenty-five residential houses on Wadsworth Street. Eleven of them are rental and eight of those are used as a multi-family residences or plain rental residences. Eight out of twenty-five is one-third and eleven out of twenty-five is forty-four percent, not half as Attorney Dolan has previously stated, so it is hard for Mrs. Kennison to believe that the character of the neighborhood is what makes the Dotterweich's want to turn this

single family home into a two-family home. She continued by stating that if this is allowed, she believes there will be a domino effect.

Julie Belfiore – 16 Wadsworth Street stated that the Dotterweich's have had the pool filled in. The new parking area seems to have been done very tastefully and that they have had no trouble with the current tenants.

Wes Kennison – 8 Wadsworth Street stated that he realizes that he is coming into this conversation late, but wonders what the tipping point is going to be. He also stated that he is very familiar with the adjacent use argument. Acting Chair Richardson stated that the dilemma for the Planning Board is that we cannot make a decision on a perception. Attorney Dolan stated that the law has changed and the Board has already denied the other two (16 Wadsworth Street and 6 Wadsworth Street) stating that they do not have jurisdiction because of the change, therefore, the argument of there being a domino effect is null and void as going forward this type of request is not a permitted use, so this Board cannot entertain an application.

Howard Appell – Livingston County News asked for clarification on what is allowed if one has boarders. CEO Maxwell stated that you can have up to three boarders.

Glen McClure – 19 Wadsworth Street stated that his family rents the apartment above their garage to one student and they find this to be a good experience for both the student and them. He continued stating that the mix of Geneseo families with Geneseo students is a wonderful sign post of what our entire community is about. The second thing Mr. McClure wanted to address was the fact that the legal description the Dotterweich's are asking for is a two-family residence, or in this case a student rental. Mr. McClure stated that it can be put on the table that we are not talking about two separate nuclear families with parents and children.

Mr. Appell asked for clarification on what the law previously allowed and what the law now allows. Attorney Reynolds stated that the old law allowed the Planning Board to grant a special use permit for a two family residence in the R-1 and R-2 zoning districts, which includes Wadsworth Street, but the new law eliminated that. Mr. Appell asked if two-family residences were allowed anywhere else in the Village. CEO Maxwell stated that they are allowed in the C-1 zoning district.

Jim Kimball – 10 Wadsworth Street stated that he routinely sees five cars at 18 Wadsworth Street and if this request is granted, up to eight unrelated individuals will be allowed to rent the property with a possibility of each having their own vehicle. Mr. Kimball continued by stating that he feels as though eight more vehicles on the street is a lot more vehicles.

Tim McMahon – 25 Wadsworth Street stated that he cannot add anything to what he has already said at the previous hearing that would add to the evidence. However, from an emotional basis, he and his wife owned the house for 28 years and feels as though there could have been a different option then filling in the pool and ripping out approximately $10,000 worth of landscaping.

Mrs. Dotterweich stated that from the non-legal side of things as a neighborhood they did live in they did not know many of the neighbors. She continued by stating that many of the students that live on the street organized a block party with food and games, however, very few of the neighbors decided to come. She stated that some neighbors at the last meeting had mentioned that their garbage has been tipped over more than once. Mrs. Dotterweich stated that she believes the people that are tipping over the garbage do not live on Wadsworth Street, but use Wadsworth Street to get to their residences on Court Street. If noise is a problem, which has also been mentioned, she believes that it could have been silenced and can be silenced in the future with a single phone call. Mrs. Dotterweich stated that people should embrace the culture and join the environment in which they live.

Mr. Appell asked if this case would be revisited. Attorney Reynolds stated that it depended on what the Board decides to do.

Acting Chair Richardson stated that the Board is not looking at this request as student housing, but as a two-family residence. Mrs. Dotterweich stated that it is not unheard of that two families would live there.

D. Woods stated that he was just looking through the October 26, 2011 Planning Board minutes, which Mr. Dotterweich noted that per insurance requirements he has to have the pool filled in by November 18th. Therefore, the pool was not filled in because of the Board's request, but per an insurance requirement, therefore there was no vested right.

Attorney Dolan argued stating that filling in the pool served a dual purpose and that the Dotterweich's per the insurance requirement did not have to pave over they area, but did. Per the Article 78 decision, three issues were brought to the forefront: parking, traffic concerns and the safety hazard of the pool. Attorney Dolan argued stating that to say that any new vehicular traffic would overburden the existing traffic patterns is a stretch. He continued by stating that the Board as a condition can limit the number of vehicles to eight and that is what we are asking the Planning to do, approve the special use permit with reasonable conditions.

Acting Chair Richardson asked for any further questions or comments.

Mrs. Kennison asked what evidence there is that necessitates this house being turned into a two family. Attorney Dolan stated that the house was on the market on and off for over a year and no interest was shown by anyone that wanted to purchase it as a single family home but some interest has been shown if the house was a two family.

Mr. McMahon commented that from his point of view, there has hardly been an aggressive attempt to sell the house and he does not remember if he saw an ad in the Genesee Valley Pennysaver advertising it for sale.

Acting Chair Richardson stated that it appears that the same arguments are being made and the Board cannot make a ruling on a perception.

D. Woods asked what would happen if a motion were to be made to grant this special use permit and the motion failed to pass what would happen. For example if the vote was two to two again for or against. Attorney Reynolds stated that he believes that the applicant would then be successful and would automatically be granted the special use permit request, but he would need to research this further. Attorney Dolan agreed that his clients would be successful.

D. Woods asked Attorney Reynolds how many days the Planning Board has to make a decision on this application considering Judge Wiggins decision that was dated October 3rd, but the fax transmittal date was dated October 6th. He wondered if the 62-day limit still applies. Attorney Reynolds stated that he believes that it does apply and that we are currently under the 62 days at this point. D. Woods wondered if the Board decides to take no action tonight and scheduled another meeting, would the Board be in compliance with the statue? Attorney Reynolds stated that he believes so.

Attorney Dolan stated that he believes his clients would object to scheduling another meeting and does not believe that the member that is not here should be allowed to vote. Attorney Reynolds stated that he understands Attorney Dolan's objection but would like the opportunity to research whether or not the Board member that is not present tonight could vote at another meeting if they were not present at this meeting and he would also like to research what the outcome is if there is a two to two vote. Attorney Dolan argued that this has dragged on long enough and his clients would like closure.

Acting Chair Richardson stated that she would personally like to wait to make a decision until Attorney Reynolds can do his research. It was noted that the next regularly scheduled Planning Board meeting is scheduled for December 14, 2011 which is four weeks from tonight. But that there is a work session scheduled for December 7th, which is three weeks from tonight.

D. Woods showed concern that if the Planning Board went ahead and voted tonight and the special use permit was granted because of a tie vote, then it would not give the Planning Board an opportunity to set reasonable conditions on the permit. Attorney Reynolds stated that he believed that this was true, but that he also needed to research this.

Dori asked if the Board was ready to vote now on the Special Use Permit request as she had to leave the meeting as soon as possible. D. Woods and C. Kruppner stated that they wanted to wait.

Therefore, at 5:55pm, D. Farthing exited the meeting.

With no further discussion, D. Woods moved to close the public hearing at 5:56pm. C. Kruppner seconded the motion. The motion passed with ayes from Acting Chair Richardson, D. Woods and C. Kruppner.

With no further discussion, D. Woods moved to meet at 4:30pm on December 7, 2011 to discuss the Dotterweich Special Use Permit further and any other items which may come before the Board. C. Kruppner seconded the motion and the motion passed with ayes from Acting Chair Richardson, D. Woods and C. Kruppner.

8. Village Tavern – Rick Vattimo – 137 Center Street:

Rick Vattimo appeared before the Board for a small roof over the side door facing the parking lot similar to the roof over the Route 20A entrance. However, this roof will extend approximately 12' over the entire deck and steps and some type of wind/snow barrier will be added to the sides that can be removed in the nice weather. Mr. Vattimo stated that he had a few different ideas but believes this is the best one. The Board wondered what type of barrier Mr. Vattimo planned on using. Mr. Vattimo stated that he plans to use a heavy duty canvas, something that is easy to put up and take down.

The Board noticed a new proposed sign for the front of the new roof. Mr. Vattimo stated that he does not have any current plans for that and should have removed it from the drawing. The Board noted that if he wished to add the words Village Tavern, he would need to come back to the Planning Board for that. Mr. Vattimo understood.

The Board agreed that this request is an amendment to the original SEQR; therefore SEQR review was not required.

With no further discussion, D. Woods moved to approve sketch plat approval, with second from C. Kruppner. The motion passed with ayes from Acting Chair Richardson, D. Woods and C. Kruppner.

D. Woods moved to waive the public hearing requirement on this request. C. Kruppner seconded the motion and the motion passed with ayes from Acting Chair Richardson, D. Woods and C. Kruppner.

With no further discussion, C. Kruppner moved to grant preliminary and final site plan modification for a small roof approximately 12' in length to include covering the steps for the west side of the Village Tavern located at 137 Center Street, noting that a SEQR Negative Declaration for the project had already been approved. D. Woods seconded the motion and the motion passed with ayes from Acting Chair Richardson, D. Woods and C. Kruppner.

9. Meeting Closed:

D. Wood moved to close the meeting at 6:06pm. C. Kruppner seconded the motion and the motion passed with ayes from Acting Chair Richardson, D. Woods and C. Kruppner.

Aprile S. Mack, Secretary