**TOWN OF MANLIUS**
**PLANNING BOARD MINUTES**
**JUNE 10, 2013**

**APPROVED**

The Town of Manlius Planning Board met in the Town Hall at 7:00 PM with Acting Chair Susan Moliski presiding and the following Members were present: Donald Crossett, Richard Rossetti, Thomas Byrnes, Ann Kelly and Joseph Lupia. Also present were Attorney Timothy Frateschi and Town Engineer Douglas Miller.

Not In Attendance: Chairman Gilbert.

Also Present: Rosemary O. Nwawka, P.C., Dan Barnaba, Joe Phillips, John Dunkle, David Stringer, Todd Little, Tom & Mary Ryan, Ken Wagner, Marte Mussell, Alan Steinberg, Bob & Sarah Theis, Betty & (unreadable), Walter Nadler, Susan & Rick Barry, Alice Kaufmann, William & Joanne Sivak, Dick & Phyllis Carr, Mike & Ellen McGrew, Jon Hefti, Anthony Rossi, Mary Lockwood, Paul & Jean Seale, Deborah Hundley, Dawn Thomsen, Abel Erdman, Garry Nichols, Richard L. Riveria, Tovah & Rob Rothman, Susan Clark and Bill Seabrook.

The Pledge of Allegiance was recited.

**Minutes:** Member Rossetti made a motion, seconded by Member Lupia and carried unanimously to approve the Minutes of May 13, 2013.

**Rosemary O. Nwawka, P.C., 7197 E. Genesee St., Fayetteville, NY**
**Site Plan & Accessory Use Permit-Law Office-362 Sq. Ft.-1st Floor**
**Tax Map #087-07-47.0**

Rosemary O. Nwawka, P.C., owner and applicant submitted a Survey dated 9-26-93 by Cottrell Land Surveyors , P.C., ID: 87-07-47, a Site Plan on the same Survey showing the existing building, 15 parking spaces and a Floor Plan showing the 362 Sq. Ft. with the proposed use as a Law Office.

Days and hours of operation will be Monday-Friday, 9:00AM-5:00PM, one employee, one customer/client daily and will utilize 2 parking spaces.

It was noted for the record that this application has been referred to the Onondaga County Planning Board.

Member Rossetti made a motion, seconded by Member Byrnes and carried unanimously to hold a Public Hearing on Monday, July 22, 2013 for the Rosemary O. Nwawka, P.C. Site Plan & Accessory Use Permit Law Office.

**Rosemary O. Nwawka, P.C., 7197 E. Genesee St., Fayetteville, NY**
**Site Plan & Accessory Use Permit-Not for Profit Office-148 Sq. Ft.-1st Floor**
**Tax Map #087-07-47.0**

Rosemary O. Nwawka, P.C., owner and applicant of Stellar Glow Foundation submitted a Survey dated 9-26-93 by Cottrell Land Surveyors, P.C., ID: 87-07-47, a Site Plan on the same Survey showing the existing building, 15 parking spaces and a Floor Plan showing 148 Sq. Ft. with the proposed use as a Not for Profit Office an organization for charitable and educational purposes.

It was noted for the record that this application has been referred to the Onondaga County Planning Board.

Days and hours of operation will be Monday, Wednesday and Friday, 10:00AM-4:30PM, one employee, one customer/client daily and will utilize 2 parking spaces.

Member Rossetti made a motion, seconded by Member Byrnes and carried unanimously to hold a Public Hearing on Monday, July 22, 2013 for the Rosemary O. Nwawka, P.C., Stellar Glow Foundation Site Plan & Accessory Use Permit Not for Profit Office.

The Board stated that the Garage appears to be in need of some upkeep.

**Eldan Homes, Inc., Westside South Eagle Village Rd. Across From Peck Hill Rd., Manlius, NY Public Hearing-Phase 2, Section 18, Mallards Landing, 2nd Amended Final Subdivision Map Tax Map #117.3-01-25.1 & 25.5**

Dan Barnaba, owner of Eldan Homes, Inc. spoke about the changes in the layout and why it was necessary. Mr. Stringer's Preliminary Plan was approved for Sections 15 through 19 as part of a Cluster and a Planned Unit Development. Mr. Stringer constructed approx. 27 Units in Section 15. Transfer of ownership of the property to Eldan Homes and Radisson Assoc. occurred, 84 Lots were approved and 25 Lots were developed in what was re-numbered Section 17 and 59 Lots remain undeveloped. In 2006 59 Lots in that Cluster format were approved. During develpment of Section 17 Wetlands were encountered. Craine Brook that cuts through the property was determined to have a wide swatch of Wetland area that couldn't be worked in. The entire Plan for Section 18 had to be re-considered. There wasn't much of an impact on Section 17 because they were able to create a couple of Detention Basins to accommodate the Stormwater needs for that Section. The biggest impact on the overall project was the inability to construct Burkes Pond, which was going to be sized in a way that would not only handle all of the Stormwater needs for all of the impacts that they would have for the 84 Lots but there was also in line with Craine Brook and being in line with that Brook it was capable of retaining the flow of the Brook during high water storm periods which would have had a positive affect downstream of the property. U.S. Fish & Wildlife, ACOE and NYS DEC referred to all Craine Brook to be interrupted by Burkes Pond for ecological reasons. The inability to build Burkes Pond was a surprise, a source of frustration to us, the Town and to the residents that were hopeful some Stormwater mitigation downstream of the site could be accomplished with the Pond. Partly because of the economy they haven't had the opportunity to develop a firm Plan on how to proceed until recently. Sales have picked-up and there's only a few home sites remaining in Section 17.

He stated that in reference to the Amended Section 18, the property is broken up into two halves, with respect to the Wetland swath that contains Craine Brook property. None of the Wetlands will be impacted. They have reduced the density from the previously approved Plan to meet the Towns' requests, Lot size and shape. There are 52 Lots that would be developed in Phases. The 20 Lots on the Cul-de-Sac would be developed in two Phases, 10 Lots in each Phase. He has a contract with a buyer for the majority of those Lots and will be developed as market conditions allow. They have compiled all the engineering data that they will need for the road cut. A lot of that work was done consistent with the Parade of Homes. If the sight distance is challenged along E. Village Road due to the growth of vegetation they are willing to remove it now or grant the Town an easement over the properties for maintenance.

Mr. Barnaba shared the following statistics:
Since Mr. Stringer originally got several Sections approved, many more Sections would have shown on the Map. There was a density of 271 Lots. Mr. Stringer developed Sections 3 through 16, 91 Lots leaving 180 Lots to be developed. The density has gone down to 214 Units with this Plan, so 57 Units have been removed from the Preliminary approval for the rest of the Mallards Landing site. The Plan showed 59 homes in blocks of 2 or 3 homes per block in the approved Subdivision. In the Amended Plan, we have broken the block concept away and have individualized each of the Lots. It has allowed for a more conventional layout of the homes. The original Plan was 3 homes in an envelope that measured 125 ft. deep and 200 ft. wide, sliced in thirds each Lot works out to be about 66 ft. wide and these Lot dimensions average close to 80 ft. wide. The Lots that they have developed on Gadwall Lane were about the same. On the Amended Plan he has extended the lot line back into the Conservation area. There will be a series of HOA's for maintenance of the common property, covenants, restrictions and etc. Instead of having one massive Pond that would basically service 3 sectors of the project they created 2 Basins in Section17, 1 Basin in Section 18(A) and 2 Basins in Section 18(B), 5 small Ponds. A significant improvement that should be noted is that the earlier sections in the Cottage area has a large private network of driveways or shared driveways. In the Amended Plan each Lot has its' own driveway.

John Dunkle of Dunn & Sgromo Engineers submitted an Intersection Plan Section 18 dated 6-11-2010, File No. 1132-003, Pictures of Site Distance at 570 ft. and 690 ft. dated 4-28-2010, Projected Trip Distribution Section 18 dated 6-2-2010, File No. 1132.003 and Pictures of Additional Clearing dated 4-15-2013 all by Dunn & Sgromo Engineers and gave an overview of the Watershed.

He referred to the 2006 B & L Study of the Craine Brook Watershed, where Mallards Landing is located and the Bishops Brook Watershed. According to that Study the Craine Brook Watershed is almost 1,000 acres, Mallards Landing encompasses 90 acres. Mallards Landing is not the sole cause of runoff in Craine Brook and consequently is not the complete solution; it's only about 10% of the whole watershed.

He stated that Stormwater design has changed, how it's analyzed, built and managed, it gets more sophisticated. Always at the base is to control floods and runoff. What we cannot do and don't do is eliminate runoff. There is always going to be more runoff coming off from the site after it's developed. We make a big bathtub, capture it, hold it back, slow it down and release it slowly.

He presented a Map that was 10 or 15 years old and showed the area of the Craine Brook Watershed, where the two locations enter the Mallards Landing site. He demonstrated the flows, it comes into a main culvert near the intersection of Peck Hill and S. Eagle Village Road. There is a tributary to Craine Brook that flows through the site and another branch comes together and Craine Brook flows through the site and exits downstream to Eagle View, continues down to Bentbrook and 173.

The original previous Plan had Burkes Pond as its' main Stormwater Management Facility. The concept was to put the Detention Basin on the Brook to slow down the stream itself, and then the Wetlands were discovered. They were informed of the Wetlands via a letter from the DEC dated 12-28-2006. He showed the boundary of the Wetland with Craine Brook going through it. They took Burkes Pond and broke it up, pulled it outside of the Wetlands and out of Craine Brook. The master concept is to develop 5 Detention Basins to capture the rest of the runoff from the rest of the development, hold it back and release it slowly.

Section 17 which has been built has two Ponds that are significantly oversized to mitigate Sections 15 and 17. There is less runoff from Section 17 now.

As they go around the perimeter and try to mitigate the development and reduce flows the best that they can. It's hard to reduce the flows to Craine Brook when you're only working with areas outside of the Brook itself. They cannot promise any reduction downstream, however all of the Basins in Section 18 will be oversized to try and reduce the flows as much as possible from the development. Legally they cannot going to increase the rate of flows into Craine Brook.

He has met with some of the neighbors that identified some areas that don't have direct retention, an area that flows undetained and that there is temporary drainage that the culvert pipe under the road that was put in for the Parade of Homes is installed backwards so the flows don't go in the correct direction, which will be corrected.

If they combine some Detention Basins to act as a large Pond and provide some additional Stormwater management beyond just mitigation.

This is Stormwater Strategy, where we can say to the folks downstream, not only are we not going to make things any worse in our 90 acre world, we can hopefully provide some reduction of flows in Craine Brook. We are only 10% of the Watershed so there is only so much that we

can do up here.

Member Rossetti made a motion, seconded by Member Kelly and carried unanimously to waive the reading calling this Public Hearing that was published in the Eagle Bulletin on June 5, 2013.

Member Kelly made a motion, seconded by Member Crossett and carried unanimously to open the Public Hearing.

Richard Barry, 4649 Ring-Necked Path, President of Mallards Landing HOA #2 introduced Board Member Tom Ryan.

Tom Ryan, 4650 Ring-Necked Path, representing the majority of the audience thinks that the biggest issue that the Board has is to review and compare the two Plans, the 2013 Map and the approved 2006 Map. After reviewing some prior Board Minutes when changes represent a true change, a true amend and to these changes leave the prior Final Plan substantially similar. He supposes the Plans of 2006 and today was deemed substantially similar. He submitted a copy of the 2006 Final approved Plan and an outline of the Challenge Before The Board which represent the major points that he is trying to make. The 2006 Plan that was presented by Mr. Stringer was a continuous semi-circle that started at Ring-Necked Path and ended at Gadwall Circle. Now we see a concept where Ring-Necked Path is extended almost in a straight line and goes out onto Eagle Village Road. There is a cut out on Eagle Village Road with all the dangers of sight line because of the curb. Then there is a large gap between the Ring-Necked Section and the Cul-de-Sacs, where there is a highly concentration of houses in two Cul-de-Sacs. Again substantially unlike the original proposal. The original Map shows Burkes Pond and the Developer proposed walking trails and bridges, no Pond. The 2006 Plan showed shared driveways, which is a typical Mallards Landing approach. The 2013 Plan shows 52 single driveways and mailboxes on the street. He felt that the most important difference is that the 2006 Plan was called an Envelope Plan, 2 or 3 Unit layout, they were organized in clusters. There was a minimum of two styles that had uniformity, consistency and predictability. How does that compare to the Plans that we might have with the Plans in 2013, we don't know, no one knows. He believes that that is where the dilemma is with the Planning Board because now the Board has something different than a Dave Stringer Mallards Landing approach. We have the new approach that will cause or occasion by the sale of the property. That means that there are so many unknowns that it is going to be awful important that the Board be responsive to the concerns of the Mallards Landing neighbors who are going to be affected by this change or design. So, you as a Board when looking at this 2013 proposal, which is totally different from 2006 must ask questions like what are the Lot sizes like, are they proper, frontage of each house, setbacks, how close to the neighbors Lot and their homes and what if more builders are brought in. How about the Mallards Landing negative restrictive covenants that they all have to live by. What about pools, fencing, outer buildings, boats, trailers, pets and landscape changes. It has been suggested in the past not to worry the new Plan, we have an Architectural Review Board. Do you know who is on that Board, let me

tell you, David Stringer, Dave O'Brien, a Stringer employee and Dan Barnaba. What do you think their goal might be, I'll bet it is to sell 52 homes. Are they as concerned as we are about retaining the Mallards Landing that we all know, he doubts it. Now, let's take a look at some of the decisions that were made by the Architectural Review Board and ask ourselves is it possible with what we have already seen. He submitted a photo of a house located at 144 Gadwall Lane consisting of 1533 Sq. Ft., what if Mr. Barnaba wanted to build 52 of these, can this Board stop him? He submitted a photo of the side view from Ring-Necked Path of a home with two small windows and asked how would you like to live across the street? One of those houses is on the market for $650,000.00. How would you like to be trying to sell that house and explaining what is right out the front door. Another example of this is a house on the corner of Ring-Necked Path and Gadwall, he was looking at the assessment of three of the houses on the circle and the average assessment of those houses is $528,000.00. The assessment of 165 Gadwall is $165,000.00. The assessment of the houses in the Cul-de-Sac is over three times the assessed values of the houses maybe 100 yards away. When we all bought our homes in Mallards Landing we believed in Dave Stringer, Stringer Construction and in his advertising. Some of his advertising quotes were; CNY's Most Prestigious Residential Community, Highest Quality Homes, Exclusivity And Elegance and Mallards Landing-The Premier Residential Community in CNY. He thinks that it is awfully important that the Board considers how this Plan of 2013 differs from the 2006 Plan. There are no similarities at all and it must be discounted as such. When you take into consideration, as you must, after particularly changing ownership, we knew what Dave Stringer offered, we knew in 20 years what his houses looked like. We now know from a couple of years of experience what Dan Barnabas' houses look like. You must take that into consideration when you consider whether he should proceed or not. Thank you for the time.

He submitted a photo of a Detention Basin located behind the house at the corner of Gadwall and Ring-Necked Path as it exists today.

He stated that when he first moved into his house on Ring-Necked Path he didn't like the water pressure. He got in touch with OCWA and they sent out a representative. That representative said that the pressure was what it was and that there was an agreement between OCWA and Stringer that OCWA wouldn't be responsible for any water pressure in the future. The decreased water pressure was probably because of the increase in housing. He doesn't know what authority that guy had but he said it to a number of us and that we would probably benefit from a pressure pump installation. He wanted the Board to be aware of that.

Sarah Theis, 4661 Ring-Necked Path-Asked what year did Mr. Barnaba get involved with the property, in terms of purchasing it?

Mr. Barnaba replied that contract to purchase was sometime in 2006 and he closed on various portions of the property between 2006 and 2007.

Attorney Frateschi asked Mr. Barnaba if he was part of this Plan?

Mr. Barnaba replied that it was a joint application with Stringer.

Sarah Theis- She understands. She just wants to point out that the letter from the DEC was December 2006. She just didn't know what it was in relationship to him acquiring the property and how much knowledge he had known about the Wetlands.

Mr. Barnaba replied that he had no knowledge of it what so ever.

Sarah Theis-Okay. Number two, when they did the Parade of Homes there was all of these one-story, they were kind of taking the Cluster home idea of putting them apart a little bit, which was fine. When she came home a month ago and found the two-story that she lives across the street from that wall, the setback way less from the street than anything else on Ring-Necked Path. It is startling to come around the corner and see a two-story house. You cannot tell from there because they didn't put the Maps so the rest of Ring-Necked Path on there or Gadwall. The setback of that property is startling close to Ring-Necked Path. It's a two-story straight up wall. It doesn't look like anything else that was in the Parade of Homes and that shocked her because she thought that they were going to get more of that gentle type of grading up the road. She has looked at the green Map on the wall and how close those houses are together; two-story Colonial squared off houses, very disappointing that that is what has become of her neighborhood. She is worried about the traffic coming back down, people cutting thru from Eagle View down thru to 92. Are we going to get sidewalks so we can walk safely down the street? There is constant traffic in the morning from Eagle Village Road.

Alice Kaufmann, 124 Gadwall Lane-Just wanted to know how close the new homes are going to be to back up to the Cottage houses, what we are going to face, are they going to take all those Evergreen trees down in the back and where that Swan Pond is going to be.

Mr. Barnaba pointed out on the Map where the Cottages were, so your property backs up to three of the Lots on the left. None of the Cottages will face these Lots nor will any of these Lots face the Cottages, they will be back to back on that north south boundary.

Alice Kaufmann-Well, what are we facing? She doesn't understand.

Attorney Frateschi pointing to the Map assumes that this is the future road, Mandrian and Indian Run Circle, the houses will all be facing this way and these will be the backyard of these houses.

Alice Kaufmann-Where is it in relation to the Cottages?

Attorney Frateschi pointed out the Cottages.

Alice Kaufmann-How close does that come, right up to my backyard? So, you are all going to have mutual backyards now?

Mr. Barnaba replied that your backyard will be independent from the other backyards. He cannot scale it tonight.

Alice Kaufmann-She doesn't want (Inedible) in her backyard not when she pays all this money to live where she lives. She has to put up with dirt and rocks that's all coming back there and dirt trucks, she doesn't want to face a housing project and that's the impression that she gets with all that is being said.

Attorney Frateschi stated that this is not your property, it is his property and they are going to develop----

Alice Kaufmann-She understands that it is his property.

Attorney Frateschi continues, your property is already constructed, so whatever distance between your house and your back property line is, he doesn't know what that is.

Alice Kaufmann-She is on a construction road above the circle.

Attorney Frateschi referring to the approved 2006 Map, it shows a house, per scale, less than 50 ft. from her property line.

Mr. Barnaba referring to the other Map, it shows the proposed location of Ms. Kaufmanns' house to this Lot in the other Section. The property jags and jigsaws, it's basically the same length as he pointed to the property that belongs to the other HOA, the commonly owned property and common HOA property.

Alice Kaufmann-According to the Map her house looks pretty close and it looks like it backs up to all of the Cottage homes. Has the Plan changed?

Mr. Barnaba replied that the property boundary itself hasn't changed.

Alice Kaufmann-So in other words your homes are going to back up to all of the Cottage homes.

Mr. Barnaba replied that they are showing two homes in that upper right hand side where there may have well been three.

Alice Kaufmann-So basically the same, your homes are going to back up to our homes.

Mr. Barnaba replied yes.

Alice Kaufmann-Totally different price range houses, no landscaping, no trees, nothing, with your tax reduction, we pay the full taxes, something isn't right here. It is not in keeping with the Mallards Landing neighborhood, it's not like Liverpool and we don't pay to live there to live in a housing project.

Mr. Barnaba stated that he wants to hear the comments.

Bill Seabrook, 116 Gadwall Lane-Why can't both sets be moved slightly to the north, you have all that open space between that and (Inedible).

Attorney Frateschi asked these two Cul-de-Sacs?

Bill Seabrook-Look at the green Map, why couldn't that entire Cul-de-Sac complex be moved slightly to the north?

Attorney Frateschi, this way or this way?

Bill Seabrook-North.

Attorney Frateschi stated that these are Wetlands.

Mr. Barnaba stated that they are restricted on the northern boundary by the Wetlands.

Bill Seabrook-In reality the location of the Cottages relative to these new homes is on the Map that Mr. Dunkle had up. It shows it very clearly, very close, not just Alice's home also 3, 4 or 5 other homes, including the one that we've moved into are very close and he's very concerned.

Mr. Barnaba stated that they looked very carefully at the proximity of homes to one another in the Cottage area. As he has mentioned that often times three homes were put in an envelope that was 200 ft. There are several instances of the Cottages where the homes are 10 ft. apart. Under this layout and what was done in Section 17 no two homes are closer than 10 ft. apart.

Alice Kaufmann-The point is we don't want to look at the homes, privacy and greenery back there.

Attorney Frateschi stated that he wants to make it clear that original Plan has already been approved. He could construct this Plan tomorrow, which means that he could construct all of these homes where they are shown on the original Plan. There was always a Plan in place to construct homes on Section 18, this is what the original Plan allows. He is asking for an amendment to change it to the new Plan.

Tom Ryan-Also wants to make it clear that you can only proceed if the Plan that he is offering

now 2013 is substantially similar to the Plan that you accepted in 2006. Before he can proceed you have to convince yourselves and maybe even us that the Plan that he's' got today is substantially similar to the Plan of 2006.

Attorney Frateschi stated that he thinks that that is not entirely accurate. This Board will certainly determine whether or not this falls within a scheme that the Board believes is acceptable to the Town. Substantially similar issue, if you read the Minutes, if he's not mistaken, had to do with holding a Public Hearing and you can amend a Final Subdivision Plan without holding a Public Hearing and if the Plans are substantially similar. At that time, he thinks that it was in 2010, the Board determined that it was not substantially similar and therefore we have to hold a Public Hearing to hear the input, that is why we are here tonight. He thinks that the Board made the same determination a month ago that it is substantially different than what was originally proposed and therefore we would like to hear what the Public has to say. So, that is where the substantially similar concept comes in and that is why the Board wants to hear from the Public as it relates to how these Lots look versus how the Lots looked when they were originally approved in 2006.

Tom Ryan-Not only how the Lots differ, but what does the change in ownership make in terms of philosophy; buildings, sales, square footage and Singular homes versus Cluster homes.

Deborah Hundley, 8222 Turnstone Drive-Falcon View-On a different topic. She has lived there 17 years, somewhere around the year 2006 they had a flood. Her house was totally surrounded by the flood by the water coming down. It didn't inundate her house but it totally surrounded it and she thought that that was all that was going on. She learned later that the people down the street, the water flowed down actually flooding the place. About a year or so later another one, very same thing. Our concern is that we have homes, that she has lived in a very long time with rains and all other things and never really had problems. But, at the time that there was construction more water began to come down. We have been on a quest for quite some time to have the Town to look at this in a series way. We've had dialogue with Doug Miller, the County Executive for the Town and have done research. There was a study done by an Engineer and they felt that the lack of that Lake up there was detrimental to them. There wasn't enough holding capacity and even the holding Pond that is up there is not adequate to what it is supposed to be. Their concern is that every time it rains, she is looking out the back to see if it's going to come again because it will go down the swales and comes within 6 ft. of her house. Even if she is okay and doesn't get water in her basement because it comes within 6 ft. of her foundation her neighbors even at that point are flooded. These are homes that we had a very nice life with, a nice creek in the back, a field with horses, but something has changed and that something is not a tornado. We in Falcon View pin an ear to the rain. The rain storms are not the same for us anymore because we have experienced it. There have been numerous times that it has gone down her swales but didn't flood, but almost, did flood peoples' homes down below. We had a lengthy period of time of dialogue with the Town about maybe working in the Creek behind us to maybe deepen that somehow to hold

more water. It took a long time to get anything done in that regard, the Town had to get Permits, etc., that was done about a year ago. It gives them great concern for you to build homes up there. additional homes that are going to have runoff because that runoff comes to her house. She heard you say today that you are going to have additional Retention Ponds and thinks that that is encouraging. If it is anything like the one that is up there now, she's not encouraged. There seems to be a disconnect, doesn't know if it's on purpose but it's like there is a meeting, a decision and it's not being watched. We pay the full boat, we're not Mallards Landing, she pays full boat on taxes.

Audience erupted very loud-We Do Too.

Deborah Hundley-Continues-We have a nice life style down here, right next to the High School. The new Flood Plain Maps show that there is one house there that's in the Flood Plain, totally surrounded, guess whose it is, it's my house, it jumps the Creek at her house. Every time it rains she has a chill down her back. Whatever decisions that you make, she doesn't know if it's within your power or not, mandate that these things have to be to spec. If they are not to spec you don't get the permission and if they are not to spec somebody is libel. This whole idea of what was up there and there's this was this Retention Pond that was going to do it, great, suddenly they couldn't go it because of EPA, it just sort of fell of the charts. We were being told all the time that it wasn't really that, just something else, it was that. The engineer just said today it would have been great, it would have taken care of it. So, whether it's 10% that's on Mallards Landing or not we are filled up at Falcon View. Whatever additional runoff comes off there we are already there at the break of flood. You have to understand Sir that this is our home and you're going to be building additional homes, she has nothing against additional homes, but do it right and protect people that have already built homes and who also have experienced the negative effects. She asked the Board to think about this, don't let it be another thing that's put on the shelf, well we heard about that but we haven't read it. Every time it rains think about the people in Falcon View. Thank you.

Dave Stringer, 129 Gadwall Lane-He is a developer of Mallards Landing with his brother Andy. He recognized a lot of his neighbors and people that he knows are here tonight. Some people seem to have short memories than others. Everybody here has seen Maps, some Maps have changed. Everybody knows what the home prices are, why they bought, why they bought at a price and what homes were going next to them. Certain times during the course of 35 years that we've been developing in Mallards Landing, our 35,000th look down, view down was always geared upon a Plan and that Plan we've tried to live up to. We had single family homes on large lots, smaller single family homes on smaller lots, cluster homes, manor homes and cottages. As time went on we changed some of their designs and price points because the market conditions went down. When you look at Mallards and when you drive around, up until the time that he sold to Dan, his brother sold it to him, they have been very consistent. He will look each of you in the eye as to what you're saying and the reasons that you knew from homes within Mallards Landing to others. Knowing what was going to go up there, but you

did it for a reason at that time. In Dan's agreement with him there are to be Associations to be set up to cure the problems. In that agreement Dan is on the Architectural Committee, Dave O'Brien, who has worked up in Mallards Landing with Andy and me for the last 27 years, which most of you know. He is the Chairman of the Committee and he's on that Committee. We decided because timing was right for me in my life that he was going to sell the remainder of a land that he was in charge of with his brother. He interviewed various builders and he and Andy choose Dan. We looked at his products thought it would work, had a Plan approved, had a good Architectural Committee and then hit a time this Country has never seen. All of us, many of us have values of our stakes in our homes and our portfolios that are 30 to 40% less than we thought they would have. That affected home building and when Dan got started in Mallards it was absolutely the worst time. It was absolutely the worst guidance that my brother Andy gave O'Brien because other than the area in question was to have 4 or 5 different neighborhoods and those products were to be built and developed so they would not compete with each other. There was going to be different price points and designs. He had every intention that that would come to flourish. There was an instance when he and Dave O'Brien were negligent and Dan asked because of the market conditions to build something that we should have never allowed, but it did get built and it sold. Then we had to react once we realized that we had made a mistake. If you drive down Gadwall now, he thinks that they have done a pretty good job having homes blend in together. He suspects that that will happen as we keep moving forward. Price points, we started the Cottages at $299,900.00, some of them go up to $600,000.00. We've had recent sales up there of re-sales that have been in the $330,000.00 range and have gone up to the $430,000.00 range. The Cottages are an animal that fluctuates, which they were intended to do. Dan's product that he hasn't brought up, but he believes that he has made a deal with another builder who currently builds up in Mallards to come on for the next Section and build at least 16 of the 20. This builder has worked with himself and Dave O'Brien and has done a good job in Mallards. When he looks around the room and when he got that Plan approved by this Planning Board he sees a lot of faces that signed a petition asking for a road cut going out South Eagle Village Road. He didn't want to do it, or change the Pond, change the configuration, but some of the people in this room signed a petition for the Board to put the road cut in. Dan is coming back with a road cut, he's sorry about it, but it's what you wanted. Because of the Wetlands, which none of us knew that we had, it had to be changed. He thinks that Dan's' program now, Mallards is 56 Units under density, his Plan for his 20 Unit Section is outstanding, blends in well and will be controlled by an Association. He thinks that the last Section of Mallards, that ties into South Eagle Village Road will have single family Lots and an Association. He doesn't know what benefits that Association will provide as owners, but he knows based on the signed covenants that there is architectural control and Associations. Thank you.

Attorney Frateschi asked Mr. Stringer, the covenants that will govern this Section 18, how does that relate to the covenants that regulate all of the other Sections, are they inter-related?

Mr. Stringer replied that single family homes within Mallards have single family protected

covenants. There are about 5 different sets as we matured and went along. Hobnail was the first Section and there wasn't a lot of strength in the covenants. When we got into Associations starting with the Market Place, Settlers Village Mallards 1, 2 and 3 they were all separate HOA's, all with separate individual covenants. Most of the covenants are similar for 2 and 3. Dan has yet to present to anybody what the covenants will be within his next Section, but he has to have them.

Attorney Frateschi, okay, but they are not cross referenced to other single family homes in the rest of the Mallards Landing development or are they, any Master Association?

Mr. Stringer replied that there is no Master Association covenants.

Sarah Theis-Would like to point out that her HOA she remembers having a discussion with Mr. Stringer, when she first bought her house that there would be no bump outs for fireplace and no synthetic siding, not allowed. So, when she comes out her driveway and looks at that wall, she's looking at some type of synthetic siding and a fireplace bump out on either side of the 2 little windows, that's what is facing the street.

Robert Theis, 4661 Ring-Necked Path-He is among the HOA #2 Board and is head of the Architectural Committee. We were given assurances by Mr. Stringer and Mr. Barnaba that we would have input into their Architectural Review Board, which consists of Mr. Barnaba, Mr. Sringer and Mr. Stringers' associate. He wrote a letter to Mr. Stringer October of last year giving approval to this house with the provia that it would have windows and that it would contain substantial shrubbery to mask it. Today we are looking at a house across the street which has nothing. He submits to the Board that this Architectural Review is worthless. Thank you.

Alice Kaufmann-She thinks that what it boils down to is nothing personal against anybody. Dave Stringer built a beautiful neighborhood and it's very sad to see that that couldn't be finished, what was started by him. It's very sad to see something very different from that established neighborhood, it doesn't really go with the neighborhood at all and that is very upsetting to everybody in the neighborhood. So, when you consider what is going to be built in the future, take into consideration that it will be more in keeping with what Dave Stringer started in Mallards Landing in greenery and shrubs to finish things off nicely and the Architectural designs to be more in keeping with Mallards Landing. Right now its mush mash, it's not right, and she feels bad for Dave because he built a beautiful neighborhood.

Member Rossetti stated that just for a point of clarification, that that really isn't the pervue of this Board. We cannot dictate shrubbery, siding of the house and so on and so forth. We look at the Lots, Lot sizes, roads and etc., so that isn't really anything that we have any input in.

Alice Kaufmann-Okay, she just had to get it off her chest.

Member Crossett stated that he thinks that the Public has made some good valid points. He wonders if it would be beneficial for all parties if 1 or 2 of the residents be allowed on the Architectural Committee so they can figure things out on what they want to do with their neighborhood. They have vested interest in their neighborhood and when the builders are gone, they are still there.

Mr. Barnaba stated that first of all he doesn't take these comments personally from the group. Some pretty harsh things were said and they are completely taken out of context. The context that he has is that he bought these properties in 2006 with a Plan with some business partners and the economy tumbled greatly. He once employed 23 people and now he is down to 5. He struggles to keep his company alive. The houses that have been built predominantly have been pre sold. We are in the business of giving the market what it asks for. To the extent that you struggle with what has been built, the market came to us and told us what they wanted and we have responded. In the Cottages there was a model that sat vacant and unsold possibly seeing 2, 3 or 4 anniversaries before it was recently sold. There are still vacant Lots that may not be built on for quite some time. The market has spoken to that and has spoken to what we have built. He is happy to get your input. In the 6 years that he has been up there Ms. Kaufmann is the only one who has called him, April or May every year. Nobody has given him feedback.

Audience-We Will Now.

Mr. Barnaba stated that he just wants to let this Board Member know that he is not opposed to feedback.

Rob Rothman. 105 Gadwall Lane-Mr. Barnaba, with all due respect, when you bought that property it was approved for something that had been through the process and frankly he thinks that most people here could have lived with. It is not the function of this Planning Board to assist you now that the conditions have changed. You may have made a bad business decision, but that is your problem, not ours. He feels that you are voicing it on them by making what are substantial changes and not taking into account the neighbors and what they want, need and expected. He thinks that that is part of the problem here, that you need to make changes to justify what you spent, he's very sorry, that's not his job or problem. His problem is that we expected and anticipated a certain level of building, the way the houses looked and you are now making a substantial change to the mere layout of the way they are going to look not to mention the question of how they are being built. While he may sympathize with the fact that this is bad, he cannot help you.

The Board stated that from what they have heard tonight they understand that the character of the neighborhood and drainage is of the utmost importance and asked that if anyone has anything new/different to add, please do so.

Ken Wagner, 8446 Glen Eagle-He was going to talk on drainage but feels that that was beat up. He lives downstream and would like to ask the Boards' indulgence to exercise due diligence for the planning stages and what has to happen. He is opposed to the Town having the developer or the HOA assume responsibility for anything related to Stormwater. The Town has taken that responsibility; there have been easements and transfers. He sees no benefits to downstream people by turning over Stormwater to people that don't have, quite frankly, Skin In The Game. He also worries that his backyard won't be there when he wakes up to/from a storm. Dan was kind enough to invite several homeowners in and shared the Plan. He didn't have to do what he's planning to do. He's trying to be a good neighbor to the downstream people. So, conditionally he supports this activity from his narrow window of involment. If he takes a teaspoon of water out of that stream, it helps everybody. Conditionally approve it, but he has to perform. If he doesn't then you guys do what you have to do. He is trying to help a Stormwater situation downstream that impacts households and quite frankly impacting the values of those houses. Thank you.

Paul Seale, 111 Gadwall Lane-Question to Attorney Frateschi. You said that that original Plan could be built tomorrow. Is that true as it is defined on that Map today with that Wetland knowledge, that you can build that like that today?

Attorney Frateschi replied that from a planning standpoint, this Planning Board has given Final Subdivision approval to this Plan.

Paul Seale-Would the Federal government prevent that from happening?

Attorney Frateschi replied very likely.

Paul Seale-So, it cannot be, that's the issue, correct? There's a new Plan, that's why we are here. So, to say that it could be built as is, is not actually correct.

Attorney Frateschi replied no. To say that this Plan has gone through Preliminary and Final Subdivision approval and was determined to be an acceptable Plan or construction based on Public Hearings that were held 5 or 6 years ago, that is what he meant. From a Planning and Zoning stand point there is an approved Plan by the Planning Board.

Paul Seale-The financial situation that he hasn't dealt with has changed. The issue relating to what we can build in that location has also been changed due to the involment of the government with Wetland determination.

Attorney Frateschi stated that presumably, the cost of constructing it like this is prohibitive, that's why we have an Amended Subdivision Plan.

Paul Seale-He just wanted to make sure that he understood the problem.

With there being no more comments from the Public, Member Kelly made a motion, seconded by Member Rossetti and carried unanimously to close the Public Hearing.

A Board discussion ensued involving the following comments, questions and concerns:

Engineering
Houses and House Sizes
Lot Coverage Issues
Density
Drainage
Traffic
Difference in the 2006 and the 2013 Amended Map
Conformity Issue-To What Has Already Existed
Boards' Pervue-Look At The Covenants For Satisfaction That We Don't Have Control Over

Mr. Barnaba stated that in reference to community character, they will try to be sensitive to that. He does want to put into context; there are 27 Cottages in the first Section and now there will be 25 homes in that other Section. So, they have just as much standing as those 25 homes as the other 27 do, literally by Unit count because they are already in and they expect a certain character. Many of the homes were pre sold. An Industry Standard is low maintenance regardless of price points. In reference to consistency with covenant control that was Mr. Stringer and Mr. O'Brien's' intention. If we push the envelope on that a little bit perhaps home size or caliber of the home we built it was strictly in relation to market demand. We can interject some type of Architectural oversight.

The Board would like to know what responsibility the Board has to the characteristics of the neighbored and if it's not the Boards', whose is it and can the Board ask for Landscaping Plans.

Attorney Frateschi stated lets go back to step one. That Plan was approved, the houses could look just like that if it was built, then today barring the fact that there are Wetlands that impede the ability to do that, that is what we would expect the houses to look like because that was the Subdivision Plan that was approved.

Member Rossetti stated that the shapes of the homes didn't necessarily need to be that way. What we approved was Lots with these dimensions.

Attorney Frateschi stated that these Lots by their nature restrict what type of houses could have been built on those Lots. It was a common theme/scheme that was basically the idea for Section 18. This is clearly an acceptable Subdivision for that area based on our conversations in the past. Now, we have a different concept, which is these Lots, frankly, are probably very similar to single family units in other Sections of Mallards Landing, These Lots over here are smaller.

Mr. Stringer stated that this was supposed to be a separate neighborhood with a separate Architectural look.

Attorney Frateschi stated that it was supposed to look like this and now it's supposed to look like that and now it's being requested to look like this. So, the real question is, since that was acceptable, how we can make this acceptable in terms of if the Board wants to continue a common theme/scheme. If that is a Finding that you want to make, do we want to continue a common theme/scheme can you do it with Lots that look like this.

Member Kelly stated that when Dave did some of those earlier houses they were smaller, less expensive, but they were more uniformed. Landscaping was done and everything looked finished.

Attorney Frateschi stated that we are not generally into qualitative decisions in terms of housing, it is not the function of the Planning Board. However, because Mallards Landing was presented with a uniform scheme, he thinks it is in the Board's authority to consider how the uniformity will continue.

Member Rossetti stated that the character of the neighborhood starts with the Lot size. You are not going to have a 10,000 sq. foot lot and a 5,000 sq. foot house. So, by agreeing to 10,000, 11,000 or 12,000 sq. foot Lots, he presumes that 1,800, 2,000 or 2,500 will be the sq. footage range of the homes.

Member Moliski stated that from the neighbors perspective you can have that size house and it can cost $150,000.00 or $425,000.00 and they want it to be consistent price wise.

Member Rossetti stated that he doesn't believe that that is a step that we can take.

Attorney Frateschi stated that to the extent that you have some control, again let's consider the density issues, the density under the original Plan was significantly greater than this Plan. So, what are we really talking about. We are not talking about traffic, drainage and etc. We are talking about aesthetics and a uniform scheme for the neighborhood.

Mr. Barnaba stated that what Dave was able to finish in 2 or 3 years will probably take them about 8 years in that one Section out of those 25 Lots. He is sensitive to what they said, that is why he sold 16 of the 20 Lots to another builder. You cannot build houses in there below $300,000.00. We are talking about Lots that retail for $60,000.00 to $70,000.00 each. He knows enough to know what he can and cannot do.

Mr. Barnaba stated that he needs time to regroup and will let the Planning Board know when he is ready to return.

With there being no other business, Member Rossetti made a motion, seconded by Member Byrnes and carried unanimously to adjourn the Meeting at 9:10 PM.

Respectfully submitted,
Barbara A. Smith