

Village of Cayuga Heights Planning Board  
Meeting #58  
Monday, November 23, 2015  
Marcham Hall – 7:00 pm  
Draft Minutes

Present: Planning Board Members Chair F. Cowett, G. Gillespie, S. Cunningham, R. Segelken, and Alternate M. McMurry  
Code Enforcement Officer B. Cross, Attorney R. Marcus  
Members of the Public

Item 1 – Meeting called to order

- Chair F. Cowett opened the meeting at 7:02 pm.
- Chair F. Cowett appointed Alternate M. McMurry as a voting member for the meeting.

Item 2- October 26, 2015 Minutes

Motion: S. Cunningham

Second: R. Segelken

RESOLUTION No. 170  
APPROVING MINUTES OF October 26, 2015

RESOLVE, that the written, reviewed and revised minutes of the October 26, 2015 meeting are hereby approved.

Aye votes – Chair F. Cowett, S. Cunningham, and R. Segelken

Abstaining – G. Gillespie and M. McMurry

Opposed- None

Item 3- Public Comment

- No members of the public wished to comment.

Item 4- Continuation of Site Plan Review – 105 Berkshire Road

- Chair F. Cowett opened the public hearing for the proposed minor subdivision at 105 Berkshire Rd.

- Stephen Komor of 104 Berkshire Rd. stated his opposition to the proposed subdivision and the variance approved with conditions by the Village's Zoning Board of Appeals which the ZBA will decide at its next meeting whether or not to rehear.
- The Board confirmed that, prior to the meeting, it had received his document entitled "The Zoning Variance for 105 Berkshire Rd. Is Wrong."

Tuesday, November 24, 2015

## The Zoning Variance for 105 Berkshire Rd. is Wrong

Submitted to the Cayuga Heights Zoning Board by Stephen C. Komor  
104 Berkshire Rd., Ithaca, NY 14850 (607) 257-0661 sck15@cornell.edu

“... all trees in general, and street trees in particular, not only enhance community esthetics and identity, but also provide many environmental and social benefits.”  
Fred Cowett, Planning Board Chair, *Village of Cayuga Heights Newsletter*,  
*Summer 2015*.

### Introduction

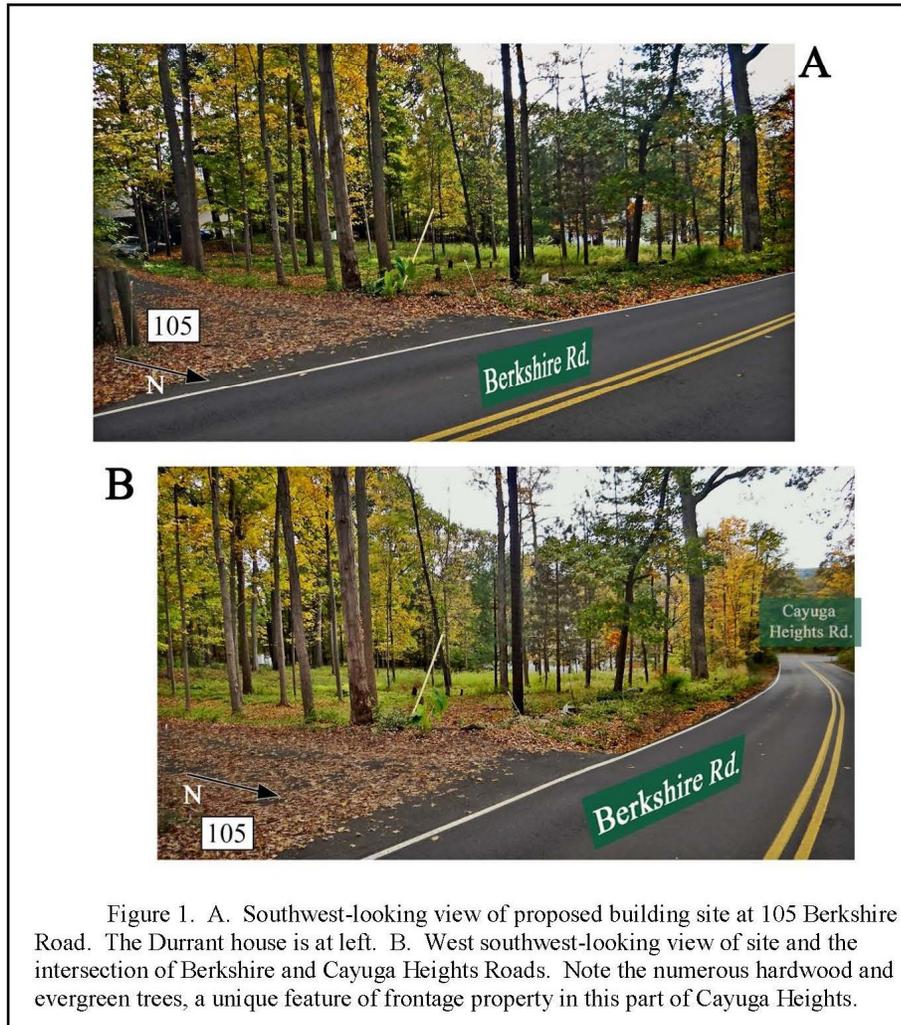
I have lived in Cayuga Heights for 37 years: 16 years at my present address on Berkshire Rd. and another 21 years in houses on Highgate Road. and Klinewoods Road. Cayuga Heights is my home because the zoning regulations keep it bucolic and inviting. The variance granted for subdivision of the property at 105 Berkshire, owned by Katherine Durrant, violates the well-established, peaceful and treasured nature of Cayuga Heights. In this document, I present data that obviated the granted zoning variance and the justification presented by Durrant. My knowledge of the justification for the variance comes from the minutes of the Zoning Board meeting on September 6, 2015.

At the Zoning Board meeting on November 2, I will speak to the board about my interpretations of the data presented her.

### Description of the proposed building lot

The lot is a pocket forest that fronts on Berkshire Road just east of the intersection with Cayuga Heights Road (Figure 1). This busy stretch of Berkshire Road is the primary entrance and exit for north-central Cayuga Heights. The proposed building site is 0.42 acres, which is 37% of the 1.2 acre undivided property (Parcel 2.1 on the Village of Cayuga Heights Tax Map). The lot slopes to the west and is steepest immediately downslope of the asphalt driveway where runoff has eroded the topmost soil horizon. Surface runoff transports soil to the western edge of the property where the land flattens, trees are spaced farther apart and ground cover is adapted to moist, organic-rich soils. I estimated the lot's value at \$61,400 by proportioning the 2015 assessment of the entire property according to the areas of the subdivided lots. The market value

will be more because of the scarcity of building sites in the Village and the location's desirability.



The proposed building lot contains more than a score of young silver maple and pine trees separated by myrtle and other ground cover. The treed lot provides a measure of quietude to the heavily trafficked western end of Berkshire Road. The small, lovely

forest is an important and prominent exhibit of the high value that most Village residents place on natural, open spaces.

Effects of Erecting a New House on the Frontage Lot at 105 Berkshire Rd.

The existing domicile on Durrant's property at 105 Berkshire Rd. has 2450 sq. ft. of living space. To envision how a new house will affect lower Berkshire Road, I superimposed a scaled image of an 1800 sq. ft. house on the proposed building lot (Figure 2). The new house largely obscures the forest. Gone is the quiet atmosphere imparted from the trees and open space. Instead, this part of Berkshire Rd. becomes another over-crowded, densely populated suburb akin to Cigarette Alley in the Northeast suburban area (Muriel Street, Salem Drive, etc.).

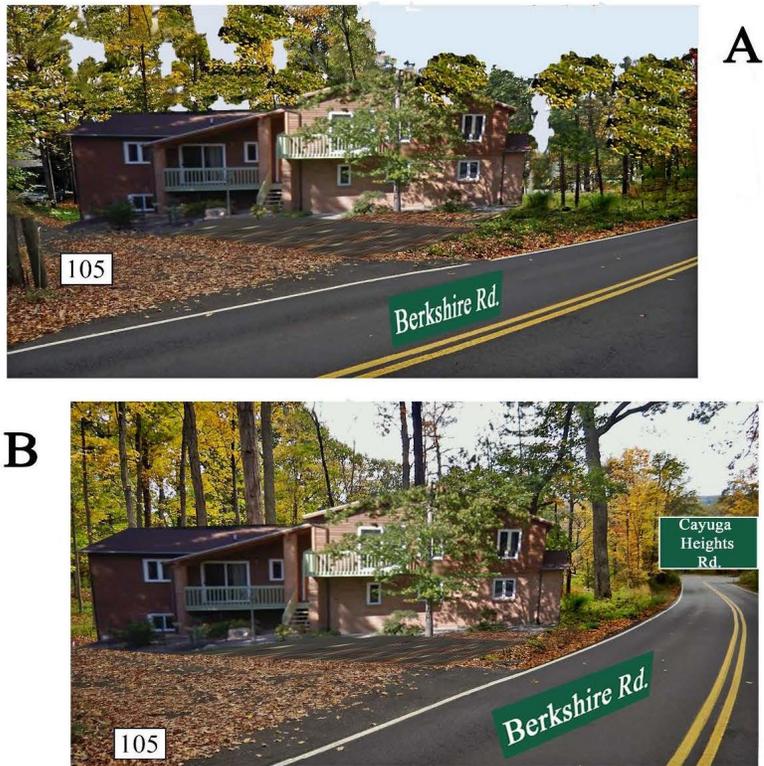


Figure 2. A. Southwest-looking view of proposed building site at 105 Berkshire Road with a scaled 1800 sq. ft. house superimposed on image. B. West southwest-looking view of the site and the scaled house image.

False Comparisons to Existing Structures on North Sunset Road.

In her narrative requesting a zoning variance, Durrant cites subdivided properties on North Sunset Road but does not specify the addresses. I identified two possible locations that Durrant may have in mind (Figure 3). One at 208-212 North Sunset Road contains three houses built by Tom McCarthy beginning in 1968. However, these houses all have separate driveways that access North Sunset Road and none required any zoning variance (*personal communication*, Tom McCarthy, 10/2015.)

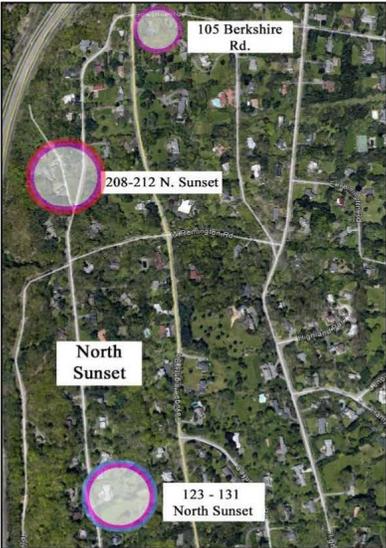


Figure 3. Locations of subdivided properties on North Sunset Road.

The other houses are at 123-131 North Sunset Road. Here, four houses on subdivided lots share part of a long driveway. The construction years and sizes and of these houses are as follow:

House Number on North Sunset Rd.	Year Constructed	Square Footage
123	1946	1727
125	1966	897
129	1966	1521
131	1966	920

Tuesday, November 24, 2015

The oldest house from was built in 1946 and the owners subdivided the property in 1965. Three small houses were built in 1966, fifty years ago. The ones at 125 and 129 Sunset Road are about half the size of a house that would be constructed on the valuable lot at 105 Berkshire. In 1965, northern Cayuga Heights was much different than today. Highgate Circle was a dirt and gravel road with no houses. Texas Lane was a dead end street. Trihammer Shopping Center was brand new. Building lots in Cayuga Heights were not difficult to find. It is false and misleading to present as justification for subdivision of 105 Berkshire Rd. the subdivisions approved in 1965.

- S. Komor reviewed his document with the Board. He stated that he has lived across the street from the proposed subdivision for seventeen years; that the proposed subdivision contains a pocket forest comprised of mixed soft- and hardwoods; that soil erosion is active on site; that the pocket forest absorbs sound and provides quiet; that the pocket forest is a lovely gateway to that portion of the Village and informs residents and visitors that the Village values open space and the splendor of nature; that the subdivision will result in the loss of trees and an increase in impermeable surface which in turn will negatively impact hydrology by diverting surface water from ground water infiltration, increase downslope soil erosion, and possibly undermine Berkshire Rd.
- S. Komor further stated he does not want to see nature shouldered aside for houses and referenced portions of the Village's comprehensive plan which recommend protection of undeveloped open space and the Village's natural resources.
- In response to questions from the Board, S. Komor stated that the existing vegetation stabilizes the existing erosion on site, that soil texture is clayey and heavy, and that underlying the soil horizons is a layer of shale with which subsurface water flow interacts to create unstable soil conditions.
- S. Komor exited the meeting and shortly thereafter the applicant K. Durrant joined the meeting.
- No additional members of the public wished to speak.

Motion: R. Segelken

Second: S. Cunningham

RESOLUTION No. 171  
TO CLOSE THE PUBLIC HEARING

RESOLVE, that the public hearing regarding the site plan review for the proposed minor subdivision at 105 Berkshire Road is hereby closed.

Aye votes – Chair F. Cowett, G. Gillespie, S. Cunningham, R. Segelken, and M. McMurry  
Opposed- None

- The applicant provided Part 1 of the SEQRA Short Environmental Assessment Form.

**Short Environmental Assessment Form**  
**Part 1 - Project Information**

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: <p style="text-align: center;">Parcel A Subdivision</p>			
Project Location (describe, and attach a location map): <p style="text-align: center;">105 Berkshire Rd.</p>			
Brief Description of Proposed Action: <p style="text-align: center;">Subdivision of Parcel I.D. 2-8-2.1 1.2 acre lot</p>			
Name of Applicant or Sponsor: Katherine M. Durrant		Telephone: (607) 793-7555 E-Mail: katiemdurrant@gmail.com	
Address: 105 Berkshire Rd.			
City/PO: Cayuga Heights		State: NY	Zip Code: 14850
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO YES <input checked="" type="checkbox"/> <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO YES <input checked="" type="checkbox"/> <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		0.42 acres	
b. Total acreage to be physically disturbed?		0 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.14 acres	
4. Check all land uses that occur on, adjoining and near the proposed action. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			



18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____	NO	YES
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO	YES
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO	YES
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b> Applicant/sponsor name: <u>Katherine Durrant</u> Date: <u>10/28/2015</u> Signature: <u><i>Katherine Durrant</i></u>		



## Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO  
Governor

ROSE HARVEY  
Commissioner

November 16, 2015

Ms. Katherine Durrant  
105 Berkshire Rd.  
Ithaca, NY 14850

Re: SEQRA  
Subdivision of 105 Berkshire Rd.  
105 Berkshire Rd., Ithaca, NY 14850  
15PR06353  
ZBA-Appeals No 2015-5 Res.

Dear Ms. Durrant:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP) as part of your SEQRA process. These comments are those of OPRHP and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

Based on available information, OPRHP has no concerns regarding cultural resources regarding this project. However, if the project will involve state or federal permitting, funding or licensing, it may require additional review for potential impacts to architectural and archaeological resources, in accordance with Section 106 of the National Historic Preservation Act or Section 14.09 of NYS Parks Recreation and Historic Preservation Law.

If you have any questions please don't hesitate to contact me.

Sincerely,

Philip A. Perazio, Historic Preservation Program Analyst - Archaeology Unit  
Phone: 518-268-2175  
e-mail: [philip.perazio@parks.ny.gov](mailto:philip.perazio@parks.ny.gov)

via email only

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### Division for Historic Preservation

P.O. Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • [www.nysparks.com](http://www.nysparks.com)

- The Board reviewed the applicant’s responses to the questions in Part 1.
- Chair F. Cowett noted the following changes made to the applicant’s initial responses with the applicant’s approval:
  - Question #1 is a “no” and not a “yes;”
  - Additional text has been added after Question #12b: EAF Mapper responds “yes” to this question, but NYS OPRFP has provided a letter stating it has “no concerns regarding cultural resources regarding this project.”
  - Additional text has been added after Question #13a; EAF Mapper responds “yes” to this question, but neither a federal wetland nor NYS DEC freshwater wetland has been mapped on site and, to the applicant’s best knowledge, no wetland is present on site.
- The Board discussed the applicant’s “yes” response to Question #6, Is the proposed action consistent with the predominant character of the existing built or natural landscape:
  - S. Cunningham stated his concern that the proposed action is not consistent with the predominant character of the existing built or natural landscape;
  - Attorney R. Marcus advised the Board that SEQRA gives municipal boards considerable latitude in interpretation, but was generally intended to focus on larger scale environmental concerns than those pertaining to an individual lot;
  - The Board decided that the proposed action is consistent with residential use in a residential neighborhood.
- Code Enforcement Officer B. Cross asked Attorney R. Marcus whether 0 acres should be the correct response for Question #3b; Attorney R. Marcus replied this response is correct.
- The Board answered the questions on Parts II and III of the SEQRA Short Environmental Assessment Form.

**Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2.** Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

The Board notes in response to Question #1 that, with respect to zoning regulations pertaining to road frontage for the proposed subdivision, a variance was sought from and approved by the Village's Zoning Board of Appeals. The Board also notes in response to Questions #2 and #3 that the proposed subdivision will result in a change in the intensity of use of land and the loss of open space. However, the Planning Board determines that these impacts are not moderate or large and can be mitigated where needed by conditions imposed by the Board.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
Village of Cayuga Heights Planning Board	11/23/2015
Name of Lead Agency	Date
Fred Cowett	Chair, Planning Board
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
	
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

Motion: G. Gillespie  
Second: R. Segelken

RESOLUTION No. 172  
TO DETERMINE PROPOSED ACTION WILL NOT RESULT IN AN ADVERSE  
ENVIRONMENTAL IMPACT

RESOLVE, that the Village of Cayuga Heights Planning Board has determined that the proposed minor subdivision at 105 Berkshire Road will not result in any significant adverse environmental impacts.

Aye votes – Chair F. Cowett, G. Gillespie, S. Cunningham, R. Segelken, and M. McMurry  
Opposed- None

- The Board reviewed Article IX Section 24, III, 2, factors to be considered by the Board in Site Plan Review for minor subdivisions in the Village’s Residence Zoning District, and found the following:
  - a. *Effect of the proposed subdivision on traffic and so traffic safety:* Additional car trip generation is likely to be minor due to the Zoning Board of Appeal’s variance condition that the subdivided lot can only be used by at most two (2) unrelated occupants or a single family with no unrelated occupants; any potential safety concerns with the addition of a driveway have been addressed by the Zoning Board of Appeal’s variance condition that the initial and subdivided lots shall share the existing driveway and curb cut and therefore only one vehicle can exit the driveway at any one time.
  - b. *Effect of the proposed subdivision on the environment:* There will likely be a loss of trees and vegetation due to future construction, and an increase in impervious surface and stormwater runoff; the Planning Board believes that, if the subdivision were to be approved, most of this impact can be mitigated through conditions imposed by the Board.
  - c. *Any other factors reasonably related to the health, safety and general welfare of the community:* There will be a small increase in the residential density of the immediate neighborhood and a small loss of open space; the Planning Board determines these impacts to be relatively minor and that they will not negatively impact the health, safety, and general welfare of the community.
- The Board discussed imposing as a condition of subdivision approval a restriction protecting existing healthy trees in the front yard setback on Berkshire Rd.
- The applicant K. Durrant questioned the Board’s ability to impose such a condition and stated that she currently can remove these trees without restriction.

- Chair F. Cowett stated that the Village’s current zoning law gives the Board the ability to reasonably require such a restriction as a condition of subdivision approval.
- Attorney R. Marcus stated that, if the Board required such a restriction as a condition of subdivision approval, and trees were subsequently removed in violation of this condition, then Board approval of the subdivision would become null and void.

Motion: G. Gillespie

Second: M. McMurry

RESOLUTION No. 173  
TO APPROVE WITH CONDITIONS THE PROPOSED MINOR SUBDIVISION FOR 105  
BERKSHIRE ROAD

RESOLVE, that the proposed minor subdivision at 105 Berkshire Road is hereby approved subject to the following conditions:

- (1) Post-construction stormwater runoff must equal or be less than pre-construction stormwater runoff, subject to approval of a stormwater management plan by the Village’s Stormwater Management Officer prior to any construction as a condition of issuing a building permit;
- (2) Existing healthy trees with a DBH (diameter at breast height) of six (6) inches or more whose trunks are located within the twenty-five (25) foot front yard setback shall not be removed without the approval of the Village Forester, subject to the procedures and penalties pertaining to street tree protection described in Local Law 2 of 2013, Street Tree and Shrub Protection and Planting;
- (3) These conditions, intended in part to satisfy the Village’s Zoning Board of Appeals request that “any buildings, structures, or impervious surfaces built on Parcel A must obtain site plan approval from the Planning Board,” must be noted on the subdivision plat.

Aye votes – Chair F. Cowett, G. Gillespie, R. Segelken, and M. McMurry  
Opposed- S. Cunningham

- S. Cunningham stated the reasons for his opposition to the resolution: that the proposed subdivision requires creation of a flag lot, his concern about the precedent set by approval of a flag lot and its impact on future subdivisions, and his belief that a majority of Village residents does not wish to see creation of additional flag lots.

Item 5- Other Business

- No other business was discussed.

Item 6 – Adjourn

Meeting adjourned at 9:58 pm.