Date: November 13, 2007

To: Town of Long Island Planning Board
From: Curt Murley - Planning Board Member
Subj: Wary Spar Project Concerns

I am asking the Planning Board to consider the following two issues regarding the Wary Spar project before proceeding with the Site Plan and Subdivision Review processes:

1.Does the Planning Board have the authority to approve this project in light of the current wording of Article 6 Section 1 Para B of the our Land Use Ordinance?

> "6.1.B Nothing within this section shall be construed to permit an increase in the number of dwelling units in a building."

As stated this expressly forbids the approval of a multi-family dwelling in the IB zone on a non-conforming lot or in a non-conforming structure; the Spar falls into both these categories. In my opinion it was an oversight by the Board to not have recommended to the Town that this language be removed from the Land Use Ordinance at the time it proposed that accessory dwelling units and multi-family dwellings be allowed in town. Until we can be sure that the Town wants to allow multi-family dwelling units on non-conforming lots and in non-conforming structures the Board might be wasting its time to proceed with the Wary Spar project review process.

2. Can the Planning Board waive the shore frontage requirements of the State Shoreland Zoning Ordinance?

The requirements in our Shoreland Zoning ordinance are currently less restrictive that the State requirements. Our ordinance requires 150 feet of frontage per structure while the State requires 150 feet per dwelling unit. The Wary Spar project satisfies the local ordinance but will not satisfy the State ordinance. I believe the Town has been notified by the DEP that our shoreland ordinance is inconsistent with the State Guidelines on this issue and that the State Guidelines apply (letter dated Jun 29,2007 from DEP Commissioner to our town clerk). My reading of the State Guidelines for Municipal Shoreland Zoning Ordinances is that only the DEP can waive this density requirement for structures that do not have subsurface waste disposal systems (see NOTE after item 15.A.1 in the State Guidelines). Again, if this requirement cannot be waived, the Board would be wasting its time to proceed with the Wary Spar project review process.

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

Appeals Board
Rob Crawford

DAVID P. LITTELL
COMMISSIONER

June 29, 2007

Brenda Singo, Town Clerk
Town of Long Island
P.O. Box 263
Long Island, Maine 04050

RE: Approval of Zoning Ordinance Amendments

Dear Ms. Singo,

The Department of Environmental Protection has reviewed the amendments to the Town of Long Island Land Use Ordinance, adopted on May 12, 2007. The amendments were received by the Department on May 22, 2007. The Department finds those amendments applicable to shoreland areas to be substantially consistent with the requirements of the Mandatory Shoreland Zoning Act, 38 M.S.R.A. §438-A, and therefore approves the amendments as adopted.

Approval notwithstanding, the Department approves the amendment to allow Multi-Family Dwellings on the basis that the minimum shore frontage requirement, as prescribed in Section 4.17-M of your Ordinance, is met for each residential dwelling unit on a lot.

Should you or the other municipal officials have any questions, please contact Mike Morse, our Shoreland Zoning staff in the Portland Office.

Sincerely,

David P. Littell, Commissioner
DEPARTMENT OF ENVIRONMENTAL PROTECTION

cc: Mike Morse, MDEP Portland

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