

TOWN OF WALLKILL PLANNING BOARD

MEETING

JANUARY 21, 2009

MEMBERS PRESENT: G. Lake, W. Capozella, R. Carr, A. Dulgarian, T. Hamilton,  
C. Najac

MEMBERS ABSENT: H. Ross

OTHERS PRESENT: J. Bacon, P. Hines

1. PUBLIC HEARING 7:30 P.M. - **DODD TRUCKING** - SITE PLAN REVISION -  
834 Route 17M (22-3-1) #38-08

G. Lake: Public Hearing started at 7:38 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 99 Tower Drive, Building "A", Middletown, New York 10941 in said Town on the 21<sup>st</sup> day of January, 2009 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Donald A. Dodd Jr., 19 Bowers Road, Middletown, New York 10940 for approval of Site Plan and Special Use Permit for property located at 834 Route 17M under Sections 249-39 and 249-40 of the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

G. Lake: Your name for the record, please.

T. DePuy: My name is Thomas DePuy with DePuy Engineering representing the applicant. They're proposing a topsoil screening facility adjacent to their existing building and where they now have a trucking company situated. Basically the topsoil would be here. The screening will be here and then it would be trucked out off the site. We provided a berm and some planting down along here to help screen the topsoil pile. Additionally, we've also provided some sedimentation traps on both sides to prevent the sediment from the topsoil coming out into the adjacent roadways that are right in the front here. Basically, there's existing screening already on the site in this area here and the new Site Plan has developed with a natural buffer that was left along here and we're also leaving the natural vegetation down here as a buffer.

G. Lake: Okay. Let me go through the Board before I go to the Public.

A. Dulgarian: After please.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: After.

T. Hamilton: After.

G. Lake: Is there anyone from the Public who wishes to comment on this application?  
Hearing none,

**MOTION to close this PUBLIC HEARING at 7:41 P.M. made by T. Hamilton and seconded by A. Dulgarian.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

G. Lake: Do you have Mr. McGoey's comments?

T. DePuy: Yes.

G. Lake: Do you want to go through them?

T. DePuy: Yes. Item #1. The Planning Board during their meeting of November 19, 2008 requested that details be provided as to how tracking of mud by trucks out onto the State

Highway would be handled. However, no details have been provided. I guess I misunderstood the question. The area where the trucks are already has gravel so when they load off they wouldn't track. They would come around and go out to the existing asphalt drive out to the State Highway so they wouldn't be tracking onto the State Highway.

P. Hines: I think that is acceptable.

T. DePuy: Item #2. During the Planning Board meeting of November 19, 2008 the Planning Board requested that the maximum height of the topsoil stockpile be shown. This has not been provided as requested. The topsoil pile will not exceed thirty feet and we will add that note.

G. Lake: Okay.

T. DePuy: The applicant's engineer must verify that noise from the screening equipment will not exceed the performance standards of the Town of Wallkill requiring that there be no net increase in noise at the property line. The screen that he's been utilizing is portable. It only has a small engine on it so, I mean, I can put a note on.

G. Lake: What are the hours that he uses it?

T. DePuy: Normally, what?

D. Dodd Jr.: 8:00 to 2:00 or 8:00 to 3:00 maybe.

G. Lake: It's strictly daytime hours?

D. Dodd: Yes, day time hours.

G. Lake: As long as it's 7:00 to 3:00 or something like that.

T. DePuy: Okay.

G. Lake: My only thought was to keep you parallel with the Department of Public Works next to you. That's why I said 7:00 to 3:00 or 3:30. I assume that's going to be the loudest of anything. Go ahead.

T. DePuy: We have to provide a decibel reading.

T. Hamilton: Give us the decibel reading.

G. Lake: Go ahead.

T. DePuy: Item #4. The information in regard to the shields for the wall pac lighting have not been provided. A catalog cut should be provided and the engineer should verify that the lenses are shielded or in fact, will be shielded as part of this improvement. We would also request that a catalog cut of the free standing light be provided to verify that the lens is not exposed. We finally found out what the model number of the wall pac was and we will give it to you. I'll get a catalog cut and we do provide a glare shield. We will put a note on the plans. Item #5. Landscaping has not been provided along the westerly boundary in residential use as requested in our comments of November 14, 2008. That's the area of the existing natural buffer on the opposite side of the trucking . We didn't see where it was necessary to provide additional landscaping in there.

G. Lake: Just check it with the new code.

T. DePuy: Okay.

G. Lake: I mean, I think you're right.

T. DePuy: That had been buffered from the original site.

G. Lake: Right.

P. Hines: We have a new code now on the landscaping.

T. DePuy: Yes, and we matched that around the front where we have the topsoil.

G. Lake: Like I said, just look at it and see if that side conforms. It think it is heavily screened.

T. DePuy: Item #6. The landscaping along the front of the property, in our opinion will not property screen the stockpile of topsoil and trucks which are presently parked in the front yard. The ordinance requires a screen in the form of a hedge, fence, berm, shrubbery, etc. We provided a three foot high berm in between the evergreen trees above that. In the area where the natural vegetation disappeared we put some low lying plants on the berm also. We didn't really want to take any of the existing vegetation out.

P. Hines: I believe that is in reference to the pile getting high.

G. Lake: I think that's the maximum he's looking at. I don't know how the rest of the Board feels

R. Carr: How high has that pile been?

T. DePuy: The way it sits today if you go by, it's about twenty five feet high.

R. Carr: I go by there at least once a day and I've really never seen it.

T. DePuy: It is more noticeable now because the leaves are all off the trees and that's why we're planting evergreens on that berm. In the summer months you won't even see it.

G. Lake: Let me go through the Board to see what they think.

A. Dulgarian: I have no problems with this. The guy runs a nice clean operation out there. It has a very low impact and is next to a garage, our Town garage. He's beefed up his landscaping. He will be doing mitigation if you will to keep any mud on his site. I have no problem with it.

R. Carr: Yes. I agree with Mr. Dulgarian. It is will run and clean.

W. Capozella: I was concerned about the height.

C. Najac: I have no problem.

T. Hamilton: I go by there all the time and being next to our Highway Garage and he is beefing up the landscaping.

P. Hines: The only other thing in looking at the plan I don't know if there is a limit to the size of the pile and it probably should be shown on the plan.

T. DePuy: That's the way it exists today.

P. Hines: Just so us the maximum.

G. Lake: It wouldn't be any bigger than what's there, would it? I don't ever remember it being much bigger.

T. DePuy: If you look on the drawing it kind of shows. It would probably be straight across. We will show a maximum.

G. Lake: Mr. DePuy, you didn't disturb any wetlands?

T. DePuy: No. We're not filling anything.

G. Lake: Maybe just note that also to make sure.

T. DePuy: Okay.

G. Lake: And, that it was taken care of on the previous.

**MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and this Board's comments made by W. Capozella and seconded by C. Najac.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

**MOTION for SITE PLAN/SPECIAL USE PERMIT subject to all of Mr. McGoey's comments and this Board's comments made by T. Hamilton and seconded by R. Carr.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

2. PUBLIC HEARING 7:35 P.M. - **PANATTONI** - 3 LOT SUBDIVISION & SITE PLAN/SPECIAL USE PERMIT - Ballard Road (60-1-120) #66-08

G. Lake: Public Hearing started at 7:50 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 99 Tower Drive, Building "A", Middletown, New York 10941 in said Town on the 21<sup>st</sup> of January, 2009 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Ballard Road Holdings, LLC, 10 Parsonage Road, Suite 300, Edison, New Jersey 08837 for approval of a three lot Commercial Cluster Subdivision on Tax Map 60-1-120 located on Ballard Road under Section 249 of the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

G. Lake: Your name for the record, please.

S. Gavon: My name is Steven Gavon and I'm the Attorney for the applicant.

G. Lake: Okay. Give us a description before I go to the Public.

S. Gavon: A brief description. It's a three lot subdivision and Site Plan approval on the former Wakefern facility on Ballard Road. Right now there are two warehouses on the facility and structures on the site and we're looking into dividing it into three lots. Two lots will have warehousing on them and on the third lot there is no new development proposed at this time. We're proposing in order to accommodate the lot lines and the access road we're looking at a commercial cluster subdivision. We have Justin Gates, our Engineer with us tonight.

J. Gates: My name is Justin Gates and as Mr. Gavon stated we're looking to do a three lot commercial cluster subdivision. Just to orient you on the site on Ballard Road and on the westerly property line, Route 84 to the south and then the railroad right-of-way along the north. As was stated we're looking at three lots. Lot #1 would fully encompass the existing one hundred sixty three thousand square foot warehouse. Lot #2 would encompass the five hundred and thirteen thousand square foot warehouse and then lot #3 which currently would remain as existing for car parking and some trailer storage spaces. We did a sketch plan for lot #3 to show the potential build out for that lot. We are showing a potential building of two hundred forty three thousand square foot warehouse with parking and accessories. Again, we're not looking to do any development on lot #3 at this time. We're here just to create the three lot subdivision. Lot #1 and lot #2 we would do some re-striping. Lot #1 meets all the requirements for the Light Enterprise Zoning District bulk requirements. Lot #2 we meet them all with the exception of the impervious lot coverage of which we are looking for a waiver from that. We don't have an internal user for this warehouse now until options are available.

G. Lake: I will go through the Board.

A. Dulgarian: I will wait.

R. Carr: I will wait until after the Public.

W. Capozella: After.

C. Najac: After.

T. Hamilton: After.

G. Lake: Is there anyone from the Public who wishes to comment on this application?

J. Myrow: My name is Jay Myrow with Shapiro, Rich & Barone, Middletown, New York. We're the attorney's for a party who has inquired into the purchase of a lot to the rear of this. We are here to put everyone on notice and to this Planning Board that if the application is approved as designed it will not meet the requirements of our client.

G. Lake: Okay. I think . . . First off, I understand you're saying that it won't go through with them but I don't think that is our responsibility. Our responsibility is to make sure it meets the code and what deals they make is between them and not us. That information is passed

on for whatever reason that it's not going to work.

R. Carr: I just don't understand why it was brought up now.

G. Lake: I happen to agree with you.

S. Gavon: And, I agree with you as well.

G. Lake: I don't think that enters into . . .that's their problem at this point.

J. Myrow: May I answer?

G. Lake: Well, if it's to do with the Site Plan you're welcome to speak. I know you wanted (not clear) but if it's to hash out difference of business opinions it's just not welcome to us, I don't believe unless the Board wants to hear it.

T. Hamilton: Mr. Lake, we're looking to see that these three lots can work by our zoning as shown. Who is in it we may need to know later on if manufacturing goes in and what's going to happen.

W. Capozella: Is a tenant already in?

S. Gavon: Not yet.

G. Lake: Anybody else from the Public? Hearing none,

**MOTION to close the PUBLIC HEARING at 7:53 P.M. made by R. Carr and seconded by A. Dulgarian.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

G. Lake: Do you have Mr. McGoey's comments?

S. Gavon: Yes.

G. Lake: Do you want to go through them?

S. Gavon: Item #1. The Town Board has apparently supported the idea of the cluster development however, formal approval of clustering must be adopted by the Town Board prior to the Chairman signing the subdivision maps. Item #2. The question with respect to the allowable impervious coverage on lot #2 should be discussed and a determination made as to whether this can be waived as a clustering provision. The only one I'm in a position to address is the question of whether the impervious surface on lot #2 can be part of the clustering (not clear). Item #3. The Planning Board Attorney must review the mutuality of use and maintenance agreements for the common use for driveways, access, parking lots, utilities, etc. That will be a condition of approval. Item #4. Concrete right-of-way monuments are to be provided at the newly created lot lines along the Town right-of-way and iron pins at all other property corners. These should be specifically shown on the Site Plan and subdivision plans and not simply placed in a legend.

G. Lake: I have to assume you will do that?

S. Gavon: Yes. Item #5. Stormwater management comments are still under review.

P. Hines: I think the intent of that is that along with the waiver for the impervious surface they're looking for some sort of retrofitting for water quality on that site.

S. Gavon: Our previous submission was a (not clear) and we're looking to convert that to a paved parking lot. (Not clear).

P. Hines: It could be the issue out there is stormwater improvement problems because the Site was developed prior to the stormwater regulations. As part of the waiver for the impervious surface we will need the water quality improvements put in.

S. Gavon: (Not clear). What I said was that we have to go in front of the Town Board for the clustering approval and waiver in regard to that.

P. Hines: There's no new construction proposed there so it wouldn't be required but there are areas they should take a look at.

G. Lake: Right. I think we can do a subject to them getting that through the Town Board.

J. Bacon: If they wanted to put in that extra building then according to, they would need stormwater management for the entire site. Since they're subdividing it you're not going to have the same control in the future. In a way now you're going to require stormwater retrofits now is the time to do it.

R. Carr: Yes. That was my question.

J. Murray: My name is James Murray with Masur Engineering. We're not changing anything it's simply a three lot subdivision with us getting approval from the Town Board for a commercial clustering subdivision. At present there are issues on the site. This Site Plan shows what might happen on that site and we will review that as we address all of the water issues on that site.

J. Bacon: What we're saying is right now if you came in with a development for lot #3 it would have to include stormwater management for the entire site but . . .

J. Murray: That's not what we're looking to do.

J. Bacon: I know you don't want to do that.

R. Carr: And that's why and setting that up as a separate lot leads us to believe that it is going to happen and that's where we are coming from.

J. Murray: Not clear.

R. Carr: We have to take into account in looking at that third lot. I think what's required of that is that you propose to do more.

G. Lake: They would have to do it at that point.

J. Bacon: If you agree to look at some of the retro-fitting on site #1 and site #2 then maybe the Board would feel a little more comfortable that you're trying to do something that otherwise you may not be able to do.

J. Murray: I may not (not clear).

G. Lake: Let me go through the Board.

A. Dulgarian: What are you gaining by doing a cluster? You're gaining the shared parking and tell me what else?

S. Gavon: It's the ability to air out problems with setbacks for lot #2.

A. Dulgarian: Okay.

J. Gates: So by getting a closer subdivision . . .

A. Dulgarian: Now, as far as parking requirements or lot coverage or anything like that are you gaining there at all and if so?

J. Gates: We meet the bulk requirements for lot #1. Lot #2 is the only one (not clear).

A. Dulgarian: Everything else meets?

S. Gavon: I'm trying to think. Lot #2 doesn't have frontage on a public road.

A. Dulgarian: Right.

S. Gavon: We're using the access road for that.

A. Dulgarian: In the back there were railroad tracks. Are you showing proposed tracks and then you show another track on the plans. Is there a portion of that, that's missing? Is there something going in to service that building or is it just a mistake on the plans?

J. Gates: That's a potential track so that lot #1 and lot #2 could have their own rail. Right now, there is one track that comes into the site and runs along the building.

A. Dulgarian: The large building?

J. Gates: Yes. It goes half way to access lot #1.

A. Dulgarian: But it is pre-existing all the way through?

J. Gates: Correct.

A. Dulgarian: Mr. Lake, that's all I have but I do agree with Mr. Carr and Mr. Bacon on the retro-fitting for the stormwater management..

R. Carr: I agree.

W. Capozella: I see a lot of accesses and I'm concerned about lot #2. There's a twenty four foot wide access road . . .

J. Gates: The edge of the drive and access into the site actually exists. Down the road then that access would have to be realigned to accommodate the new building . . .The maintenance and whatnot are going to be (not clear).

P. Hines: There will be an agreement that the Town Board would control as for the access road.

C. Najac: As far as the clustering I don't see an issue. As far as the stormwater management I feel all three lots should be looked at together for the impact. We will have some impacts.

J. Gates: We will certainly work with Mr. McGoey as far as whatever he wants to as far as the retro-fitting goes as far as the two lots. The third lot we don't know what's going to go on there so I would say we should probably coordinate it with the other two lots and then when the third one goes in we will have to make sure there is no impact.

P. Hines: The proposed new construction would have to meet the regulations on the stormwater management. I don't mean the new lot. I'm concerned about getting the water quality on the existing lots. The new lot we have complete control over the stormwater, utilities. I think it's an issued that will have to be resolved by the Town Board.

G. Lake: Let me finish through the Board.

C. Najac: Hopefully the lighting on the existing . . .

G. Lake: Talk to Mr. McGoey. He knows what the Board wants with the outside lighting.

T. Hamilton: I have a concern if one of the lots is sold and who will have control over the stormwater management. I'm not looking to have another entrance going into the site. We

worked very hard to get it lined up before.

G. Lake: So anyway, the stormwater management I think we could probably work that out in a work session. I know it's also up to the Town Board. As far as the stormwater management I think it's up to the Board if you want them to come back or we can give it a subject to as long as Mr. McGoey is happy with the stormwater management and that it's worked out for the entire project. I think in the past put the maximum size building that can be built and then figure out to the maximum and go from there. I don't have a problem letting Mr. McGoey and his office experts work with you guys between now and when you go before the Town Board to get their approval for the commercial cluster. I don't know if you guys want them to come back or give them a subject to?

T. Hamilton: They will have to come back to us anyway because we can only give them Preliminary until after the Town Board gives them the cluster approval

G. Lake: Anything else from anybody? If not . . .

**MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by R. Carr.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

**MOTION for PRELIMINARY APPROVAL subject to all of Mr. McGoey's comments and this Board's comments made by R. Carr and seconded by W. Capozella.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

3. PUBLIC HEARING 7:40 P.M. - **DICKEY'S BBQ** - 320 Route 211 East (50-2-35) #61-08

G. Lake: Public Hearing started at 8:16 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 99 Tower Drive, Building "A", Middletown, New York 10941 in said Town, on the 21<sup>st</sup> day of January, 2009 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Dickey's BBQ, P.O. Box 3013, Middletown, New York 10940 for approval

of an Eating and Drinking/Retail, 330 Route 211 East and a Lot Consolidation under Section 239-26 (C)3 of the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

G. Lake: Your name for the record, please.

W. Smith: My name is Willaim Smith with Dyami Architects and representing the applicant. With me is Michael Atorro representing Inland.

G. Lake: Go ahead. Give us a brief description and then we will go through the Board before I go to the Public.

W. Smith: We're looking at the former Hollywood Video building and we would like to subdivide it into sixty three hundred square feet divided into two spaces thirty six hundred and twenty six hundred square feet. The twenty six hundred square feet would be for

Dicky's BBQ, the thirty six hundred square feet commercial. I'm also here for a Lot Consolidation which now is Shop Rite.

G. Lake: Let me go through the Board before I go to the Public.

A. Dulgarian: I will wait.

R. Carr: I will wait.

W. Capozella: I will wait.

C. Najac: After the Public.

T. Hamilton: After.

G. Lake: Is there anyone from the Public who wishes to comment on this application?  
Hearing none,

**MOTION to close this PUBLIC HEARING at 8:19 P.M. made by A. Dulgarian and seconded by R. Carr.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

G. Lake: Do you have Mr. McGoey's comments?

W. Smith: Yes.

G. Lake: Do you want to go through them?

W. Smith: Sure. Item #1. The Public Hearing for this project is being held for an eating and drinking establishment to be located in the former Hollywood Video store. Item #2. A lot consolidation plan has been submitted as requested by the Board to consolidate the lot which divides the Shop Rite store. We would recommendation that this lot consolidation plan be filed with the Town Assessor and County Clerk prior to the signature of the Site Plan by the Planning Board Chairman. Item #3. Details of the grease trap have not been provided as requested in the meeting of November 19, 2008. The Board did discuss with the applicant, the status of the Majestic Carpet building. The Board requested that the building be upgraded architecturally to match the rest of the plaza. Item #4. We recommended that a commitment be received from the property owner that any damaged or dead landscaping in the existing plaza be replaced during the spring of 2009. Item #5. We should discuss the status of sidewalks.

G. Lake: In any project . . .

M. Atorro: As per the letter dated January 6, 2009 addressed to the Town of Wallkill Planning Board Inland would like to comply with the requirements that has been mentioned as part of this project. They purchased this property roughly two years ago from the previous owner and they will gladly comply with any requests of the Board in order to allow the tenant to move in. To that extent they conducted a meeting on Friday January 16, 2009 at Mr. McGoey's office which was attended by William Smith and they discussed the various issues. Recently we did receive some additional comments regarding the sidewalk yesterday afternoon which did not give Inland enough time to fully absorb those comments. They have every intent of complying with any issues discussed to this point.

P. Hines: Just to clarify for the record then you are going to put the sidewalks in, is that what you're saying?

M. Atorro: Yes. They would like to review the comments and if they proceed with this project they will comply with anything else requested. Right now they have Dickey's BBQ still represented as a proposed tenant. He that deal does go through they will . . .

P. Hines: As a condition of this approval the sidewalks will go in.

M. Atorro: Where?

P. Hines: Along the property frontage.

G. Lake: I think they're there, aren't they?

M. Atorro: There are sidewalks currently located along the whole front of the property with the exception of the area in front of Cheeseburger Paradise.

C. Najac: What about a sidewalk going onto Carpenter Avenue?

M. Atorro: There's none there.

C. Najac: Yes. People are walking on it now.

M. Atorro: The only portion that was discussed at the on-site meeting with Mr. McGoey's office was this portion by Cheeseburger Paradise, yes.

C. Najac: Then what about a walkway through your parking lot?

M. Atorro: We just had one question on the liability of what would happen if we put a sidewalk and a curb cut at either end, once you've reached the end of this property there's no outlet for anybody whose in a wheelchair to go across six lanes of traffic. We just wanted to raise that issue. We felt it was an unsafe thing to do by installing a sidewalk at that location.

G. Lake: I thought of extending that and I think I brought this up a couple weeks ago or a month ago and Mr. Jaques has not gotten back to me. The good chances are if we put a sidewalk to nowhere and putting people out onto the road Mr. Jaques probably won't give them a Building Permit. He is supposed to be getting me some information which he hasn't done yet. I'm going to ask you at this point when and if the information comes through and it's found that you can do that up to the property line legally would you do it by joining the district? That's how we've been handling it at this point.

P. Hines: You would have to start somewhere otherwise you would never get another piece of sidewalk.

G. Lake: That might be but there have been projects shut down by the Building Department because of putting a handicap ramp down into the middle of the road with no place to go and that was over on Schutt Road. I feel with you one hundred percent.

A. Dulgarian: Whoa, did we lose our sidewalk on Schutt Road?

G. Lake: I think we're getting close to it.

T. Hamilton: It has something to do with having a handicap sidewalk and the Building Department has been shutting people down. We're waiting for some documentation on that.

G. Lake: We will have to wait and see what the Building Department says.

P. Hines: This sidewalk is under the jurisdiction of the Department of Transportation anyway, correct?

G. Lake: Yes. Basically are you willing to put it in to the end of your property.

M. Atorro: The one question that we have is would it be possible if this were approved we will approve it on that condition to the extent that Dickey's BBQ can proceed with the filing for their Building Permit and ordering their materials and equipment and let the franchise maintain their project schedule or does it have to be treated as one issue at this point?

G. Lake: I think to actually put it in right now in the dead of winter, in other words you would have to put it off until spring.

M. Atorro: Like with the landscaping can something be approved conditionally so they can proceed?

G. Lake: Yes. I would say we're not going to hold the business up.

P. Hines: There will probably be a requirement to bond those improvements.

M. Atorro: And, also with regard to the details of the grease trap I believe we have since (not clear).

W. Smith: I talked to the Superintendent of Water and Sewer and he . . . I faxed over the detail that I had and he didn't have a problem with it.

P. Hines: I have a note from Mr. Ingrassia on that.

G. Lake: Okay. I will go through the Board.

A. Dulgarian: I think it's a use that's consistent with what is going on out there on Route 211. I have absolute no issues with the type of use. The property owner is willing to put sidewalks and upgrade the landscaping and also look at the architecture. I mean, what more can we ask for. I have no problem doing the improvements at a later date.

R. Carr: Nothing further.

W. Capozella: I don't have a problem with this.

C. Najac: Nothing further.

T. Hamilton: Nothing further.

G. Lake: I don't have anything else.

**MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and this Board's comments made by C. Najac and seconded by T. Hamilton.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

**MOTION for LOT CONSOLIDATION made by A. Dulgarian and seconded by R. Carr.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED.**

**MOTION for SITE PLAN APPROVAL subject to all of Mr. McGoey's comments and this Board's comments made by W. Capozella and seconded by C. Najac.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

4. **BECKER'S PRECISION AUTO** - SITE PLAN REVISION - 1954 Route 211 East  
(31-1-22.1) #69-08

G. Lake: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh surveyor for Mr. Becker.

G. Lake: Go ahead.

D. Yanosh: This is a site that was approved by this Board back in 2002 and he was able to put in a motor repair business here. Back then the zoning was M-I. It was a special permitted use and he received a use variance for the use and Site Plan approval. He put the building up around 2004 or 2005. The business has increased over the years. He needs more parking. The original site plan called for twenty five spaces. The twenty five spaces are out there. Six are going to be used for used cars. He has a need for that increase up to ten and he needs more parking in the back for the vehicles that he works on. Also, the trailer placed on the property we find out now that it's not allowed. It is allowed if we get Site Plan approval for that. In the interim, the zoning on the property changed from M-1 to RA-1. It turns out that now it's a non-conforming use and how we handle to expand the parking is to ever get approval for that trailer or again, I talked to Mr. Becker tonight about putting up a building in the back, an accessory building to this site so he can store some more of his cars inside. He has a few Mustang's that he keeps and refurbishes and works on. A small little garage or shed in the back of his site someplace to store these vehicles in. Plus, he needs storage for tires and spare parts. Again, the building he thought in the beginning was big enough to store everything inside but his business has grown and he needs to expand. One of the situations that Mr. McGoey has brought up is the fact that we have to appear before the Zoning Board of Appeals for variances or whatever because it is a non-conforming use now.

G. Lake: Yes. Mr. Yanosh when you got this for this applicant a few years back you didn't have to get any variances and you said you had to get a variance?

D. Yanosh: No. It was a Special Use Permit.

G. Lake: It was allowed in that zone at the time. I thought you said you had to get a variance. I think you do now though, right?

D. Yanosh: Well, since its not, these uses aren't allowed in the zone.

G. Lake: Right.

D. Yanosh: He wants to expand it so, I guess we will have to go for a variance, interpretation or whatever you want to call it. Again, we know that one of Mr. McGoey's comments is that once we do secure that the landscaping will have to be upgraded to the new code.

G. Lake: Your original approval, did it have sales spots?

D. Yanosh: It did. It had sales for six used car spaces. Now we want to get up to ten. Additional parking in the back to move vehicles in and out for repairs. So, we need more parking in that area. Again, where the proposed trailer is on the site we will meet the setbacks. The setbacks are really exaggerated since the M-I zone (not clear), so if we do have to go to the Zoning Board of Appeals for a variance for the parking we'll probably put a building back there also, a 24 x 60 foot building with some garage doors so he can put in his vehicles that he works on. There will also be storage in that building.

G. Lake: Mr. Bacon, you feel he has to appear before the Zoning Board of Appeals?

J. Bacon: Yes.

A. Dulgarian: For what?

J. Bacon: For a non-conforming use. It's now a pre-existing, non-conforming use so if he wants to expand it or enlarge it or add to it he will have to appear before them.

C. Najac: He's limited in size?

J. Bacon: The code says . . .As it stands right now the Planning Board can't approve it. He will have to appear before the Zoning Board of Appeals and explain his case to them.

G. Lake: Mr. Dulgarian, do you have anything before I send him?

A. Dulgarian: Yes. Mr. Yanosh, the trailer now, where is it?

D. Yanosh: Way in the back left corner.

A. Dulgarian: Do you show where the trailer is existing today?

D. Yanosh: No.

A. Dulgarian: So, it's too close to the property line?

D. Yanosh: It would be, yes. The setbacks now are seventy feet. It's on wheels and is registered. It's something that can be moved around. The code does allow for a trailer to be parked on the property but Mr. McGoey would like to see it go through the Planning Board.

A. Dulgarian: Here's my problem. My biggest fear with this amount of parking in the back and with a typical auto repair business, you get them in and get them out. We don't want to

see the appearance of a junk yard in the back where everything is stored all the time. If he needs a building or he need storage he should have an accessory building similar to what we made a prior applicant have so nothing is stored outside. And, that the accessory building is an accessory building and not another repair shop where we would require more parking again. I have no problem if the applicant wants to do some sort of an accessory building to store things in but I would be against having a second building on the site to do the same type of business and I'm against really having all this parking out to the side. First off, you're paving everything. Second off, you're just inviting some things to be there and that's not the intent. I know Mr. Becker very well. He has a nice business and I supported this when he initially built it. I still think it is first and foremost a repair shop and unless he's going to be impounding cars or whatever . . .

R. Carr: My first impression was that you were taking over the entire lot. It is just a lot of parking there for what doesn't seem to be.

D. Yanosh: He does have people who, he does his own vehicle and sometimes where spaces are opened up in two or three days. Cars will sit for days if people can't pay their bill and they sit in his yard. He needs this room. Nobody wants to put more parking and spend more money to pave unless you need it. He feels right now he needs more.

A. Dulgarian: I think we need a happy medium between what he is looking for.

D. Yanosh: We can do that. It wouldn't be an accessory use building. It would be a storage building. He is going to put his Mustang's in there and his other vehicles just to store them with no mechanical work done on them at all. It will be for storage to keep the vehicles out of the weather. When it snows he has to move them off the parking lot to plow or whatever when he has to re-stripe or whatever and will be moved around so he wants to put them under cover.

G. Lake: You're going to have to get a variance if you want that parking out there also.

D. Yanosh: The building and the parking.

G. Lake: Right.

T. Hamilton: He's in an RA-1. All of these new items that he wants to put in there aren't even allowed.

D. Yanosh: It's pre-existing and non-conforming use. I know he can expand a pre-existing,

non-conforming use by fifteen percent.

W. Capozella: Will you be getting rid of that trailer then?

D. Yanosh: The trailer would be gone.

C. Najac: At this point do the neighbors really want to see this get so big.

Mr. Becker: I am the neighbors.

G. Lake: Anything else, Mr. Najac?

C. Najac: No.

T. Hamilton: We worked hard on this project when it first came in trying to get it to fit but now they've come in and asked for all these parking spaces. Now that the zoning has changed and the items he wants aren't allowed in the new zone. The plan shows the trailer as being proposed.

D. Yanosh: We really didn't know what we wanted to do here tonight. The first was to move the trailer there because it is allowed. You can have a vehicle on wheels. He's in RA-1.

G. Lake: Anything else, Mr. Hamilton?

T. Hamilton: No.

G. Lake: We're going to send you to the Zoning Board of Appeals. You've heard the Board's concerns. The Town has changed the zone since you first came in so I think when you do come back understand what a variance is. You may get it at the Zoning Board of Appeals but you may not necessarily go through here.

**MOTION to send applicant to the ZONING BOARD of APPEALS made by A. Dulgarian and seconded by W. Capozella.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

5. **MILLENNIUM MANAGEMENT** - SITE PLAN - County Highway 78 (69-1-1.2)  
#62-07

G. Lake: Your name for the record, please.

A. Fusco: My name is Al Fusco with Fusco Engineering representing Millennium Management..

G. Lake: Just let me bring the Board up to what we have done at the last couple of work sessions. You can point at the map the changes. We've had a couple of work sessions back and forth. We're still trying to get through sketch so they can decide to move on and do what they want. At the last work session we worked out the locations of the buildings with Behan and they did put in their comments. At the end and unfortunately I was on way out and this is my first time seeing it but there was some discussion on the emergency road and maybe a different way to handle it and that's what Mr. Fusco will show us now and some of the other changes on the map on the two differences from the main difference on the emergency road and the new. Go ahead.

A. Fusco: What we had done is we had gotten approval for sketch of one hundred twenty that included a loop road in here. One of the things that we have looked at . . . We had come to you before and had sketch for one hundred twenty units with a loop road that came in through here. What we also were requested is to put an emergency gravel access and would be maintained and plowed up through there. When we were looking at it and we saw that when we were doing a loop road in here for the previous plan we were going to be disturbing quite a bit of an area because it was an area that goes up steeper so what we did is we instead continued the road on a gentler grade and we made it a boulevard up until this point so that

we are limiting disturbance. We still have gray issues but they're all within the limits of the code. We've obviously extended the emergency access up to that point as well. So, we probably limited our disturbance by about ten to fifteen percent from where we would have done it before. That was one of the changes that we had made. We also had moved some of the buildings around to make sure that they're out of the steep slopes and we started to fine tune some of the engineering work. Now, we're in the process of moving forward towards Lead Agency designation and also a Public Hearing. We did submit most recently an expanded Part III to go along with our Environmental Impact Statement which we think was pretty inclusive. That was submitted two weeks ago and we did get some comments from Mr. McGoey that included that. That's basically the changes that we had made on the map, the most substantial being that we took this loop up here out and continued it with a boulevard up to that point and we have greatly limited the disturbance. If I can, I'm also going to show you because there were some questions that had come up before in relationship to the area around the property. If I may this is the property here. Basically what we're doing is we're limiting our construction to this open field area here and leaving the rest of this in this area as a conservation area and this undeveloped here. As you can see there's open space.

A. Dulgarian: With no further development?

A. Fusco: We didn't designate it as no further development but we have no plans on the RA portion of the property as explained previously by Mr. Jacobowitz at the last meeting. One of the things that we wanted to show is there is always open space in the City of Middletown, the open space surrounding the schools and this open space here would continue and we're only limiting it to a cluster area in here. The single family houses in this area. The Middletown Psychiatric Center has had multiple residences there in relationship to their care issues. It's a nice transition where we have just some residential units here and single family here, institutional here and all open space. So I think it really does lend itself to the neighborhood and it does meet the zoning. If you want I will flip it back so you can see the other part of the rural areas of development. One of the things that we tried to do is to match the properties and worked strongly with the Chairman, Mr. McGoey and Behan to maximize the existing topography so what we did is we kept it in that open area and flatter area up at the top leaving the rest of this available particularly down in here as designated construction area. Since we have met you the last time we did get a chance to meet with the conservation commission and they had questions that were similar to what you have had with the neighborhood and they have thirteen issues that they would like to have answered in a narrative which we did give them about two weeks ago. We met with them on a regular meeting night about an hour. We went over basically what I just told you and in addition to that we went over their narrative and gave that to them where it shows where we're trying to

conserve the open spaces. In addition to that they were trying to limit the disturbance and things of that nature. So, we have met with them and they're original comments were answered which related to soil and erosion control which we detailed in a copy of our soil and erosion control and also a narrative relating to the conservation principles that are in the code. What we're looking for this evening is to further the process along. We do request Lead Agency designation by yourselves. There was a question from the New York State Department of Environmental Conservation which we sent them additional information and they answered. Recently we received a letter which I know you have a copy of by them and by me indicating that they have no objection to Lead Agency status but of course they remind us of whatever permits we need to take with them which, of course, we will pursue. So,

basically we're trying to get Lead Agency designation and to further the project for its Public Hearing.

G. Lake: Did you send out the Intent to become Lead Agency?

A. Fusco: Yes we did.

G. Lake: They have gone out?

A. Fusco: It's all been done.

G. Lake: Any comments?

A. Fusco: We had received one question from New York State Department of Environmental Conservation for some additional information which we sent to them and subsequent to that they sent us back a letter saying that they have no objections to the Planning Board becoming Lead Agency.

G. Lake: Okay.

A. Fusco: You should have that in your file. I have it in my file here if you don't.

G. Lake: Your new road, you aren't still going to build that bottom one, are you?

A. Fusco: We're still going to have the emergency access here.

G. Lake: Okay.

A. Fusco: We will continue to have an emergency access. It will be a gravel emergency access. Before what we had was a road that came in here, a loop road and this came up to here and looped around and it did have some redundancies with the emergency access that was requested at the work session. Once we showed you both the emergency access and the loop road, the loop became redundant and it was just taking up additional areas and adding impervious surface to the property and also creating additional disturbance.

G. Lake: The road going up how wide will that end up being?

A. Fusco: This road will be a thirty foot pavement all together and it depends on if it was designed you would like to have some barriers in the middle. We didn't show it but we can.

G. Lake: What is your percentage of . . .

A. Fusco: Everything is under ten percent as an average. One of the things that we've done is in these areas here we flattened it to about two percent so that you have adequate stopping distance within the intersections. We flattened it out where ever we had intersections and on the straight lines a little bit steeper. We are coming down close to the road with the County regulations of minus two percent meeting the County requirements. We did receive from County Department of Public Works a request for their standard treatment, put all the notes on the pages and meet all the requirements which we don't have any issues with at all.

G. Lake: Okay. There are a lot of comments here tonight. I don't know if we can go over them here. I would much rather since there are like twenty seven comments, I would much rather have them incorporate and go back to a work session and any new comments this Board has and obviously if the Board is happy with the new configuration of the road. Like I said that was done to save . . .How much disturbance?

A. Fusco: We're probably going to save about fifteen percent of the disturbance. We're still going to have a couple acres of disturbance because of the slopes. The comments that we went over that we received we have already answered. Obviously I'm not going to submit them to you accordingly but we did submit them and did the changes. Basically, if you have the time we would like to go over them rather quickly. I can probably do it in about five minutes if you would so allow us because I think you will see that we did take care of the comments. They're all very minor in nature and I think it might give you some insight into some of the issues that have come up so that we can possibly move quicker into Lead Agency and towards the Public Hearing.

G. Lake: Well, I think we can assume Lead Agency tonight but I don't think we can schedule the Public Hearing yet.

T. Hamilton: I think we should have something from the conservation commission.

A. Fusco: Let me take that back. I didn't mean to assert that they said they agreed. We met with them and have given them what they had asked for and they were taking that under advisement. I didn't mean to infer.

T. Hamilton: But we haven't seen anything from them.

A. Fusco: I know but I didn't mean to say because I am sure they will come up with something.

G. Lake: Let me go through the Board and then if there are any big items here you may want to talk about.

A. Fusco: We do agree with everything that was said. It's not a problem.

A. Dulgarian: We're just looking at sketch.

G. Lake: This has changed a little bit because of the road configuration.

A. Dulgarian: Actually the layout.

A. Fusco: We did receive sketch at the last meeting. The only thing that changed is this.

A. Dulgarian: One of the strong points for me being a residential development that close to the schools was the . . . initially we were looking at a walk/path to the school. Now if he has a four foot sidewalk down the length of that road does that road dump off to a place that has continuous sidewalks to the school?

A. Fusco: No. This comes down, the sidewalk comes down to a parking area here and we set up a bus station, you know a bus shelter.

A. Dulgarian: Walk the kids from there to . . .

A. Fusco: A lot of the kids will be going to other schools such as the high school or whatever the case may be. That's why it was requested in a work session that we have the bus shelter.

We own a limited amount of frontage on the County Highway. We would be more than willing to put a sidewalk on our frontage. In relationship to putting a sidewalk to the schools it would either be on County property and/or say the Middletown Board of Education property. We don't have any property and they have no sidewalks there now.

A. Dulgarian: Didn't we have something before though other than the access road?

A. Fusco: There's a walking trail that limits the walks through the emergency access. We have never proposed an access into the bordering properties as far as the sidewalk.

A. Dulgarian: I still think that is a strong point.

R. Carr: Yes. I think in terms of I like this one better than the last one.

P. Hines: There's quite a bit more information that is needed. There is no drainage plan. There is a lot more work to be done. I have no problem with you becoming Lead Agency.

A. Fusco: I will include it.

W. Capozella: Unable to hear.

G. Lake: We did discuss that. In the municipal agreement we talked about that.

A. Fusco: What we've done is and that's one of the comments. In fact most of the comments that we've already answered and one of them was in that regard we agreed to do an inner-municipal agreement and/or for the district. The Attorney for the project has already approached the Town Board and actually we had anticipated that they might have had a decision before this meeting as to which direction they wanted to go. Either to expand the district across the street or to set up a new one. We agreed to do one or the other and between themselves and their special counsel they haven't decided which one and we're agreeing to do whatever the Town Board wishes. Another comment he had is about the agreement and there was an explanation that piece that previously separated, that's the twelve units that Macon had built across the street and that's why the tax map numbers in the agreement and in our plan vary a little bit because it was broken up in a previous subdivision. Most of the questions related to that. One of them you mentioned the traffic. That was a typographical error. We had said that there were (not clear). We corrected that and I didn't take the presumption of bringing it to you. We have it all in letter form.

T. Hamilton: What about the water and the sewer?

G. Lake: Mr. Capozella, anything else?

W. Capozella: No.

C. Najac: Continuing on what Mr. Dulgarian had mentioned about the walkway. The southwest corner of that property abuts the school property?

A. Fusco: The school open space.

C. Najac: Isn't that part of the school district?

A. Fusco: The school actually has all of that.

C. Najac: Couldn't you use part of the emergency access to the school lot and make the walkway? You are talking about children that will be walking to school.

G. Lake: Mr. Najac I would be surprised if the school would even let them. I would be shocked at that.

A. Fusco: Here's where the houses are and this is where the school is. The emergency road comes in here.

G. Lake: It's along County Route 78.

C. Najac: Yes I know where County Route 78 is. They don't have the road frontage there.

G. Lake: Again, Mr. Najac I can't imagine the schools. It's not saying they can't ask. Anything else, Mr. Najac?

C. Najac: No.

T. Hamilton: No. There a lot of Mr. McGoey's comments.

G. Lake: Mr. Fusco, how many units are we talking right now?

A. Fusco: One hundred and twenty.

G. Lake: One hundred and twenty?

A. Fusco: That's correct.

G. Lake: What was it in the very beginning, do you remember?

A. Fusco: Ninety six.

G. Lake: So, you went up twenty four. Mr. Hines, he did send out the intent to become Lead Agency back on September 18, 2008.

P. Hines: They would have written in by now.

G. Lake: Right. So, I don't see a problem accepting it tonight. So, we're going to do Lead Agency for you tonight. Work sessions are pretty easy to get on right now. Go back to work on these comments plus any comments of the Board and hopefully the Board will submit anything they see in the document that they want to question.

A. Fusco: In reviewing the documents any of the comments that Mr. McGoey has made we've already made the changes.

G. Lake: Okay.

**MOTION for the PLANNING BOARD to accept LEAD AGENCY made by T. Hamilton and seconded by R. Carr.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

6. **FINI** - 2 LOT SUBDIVISION - Stage & Stony Ford Roads (61-144) #73-08

G. Lake: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh surveyor for Mr. Fini..

G. Lake: We have to send you to the Zoning Board of Appeals?.

D. Yanosh: Yes.

G. Lake: Go ahead.

D. Yanosh: It's an existing seven acres, 7.67 acres of property on Stony Ford Road and Stage Road with frontage on both streets. We met in a work session with Mr. McGoey. He suggested a conservation subdivision which is what you have in front of you but I guess after he reviewed the plans later on that we might as well go back to a conventional subdivision. We will need a variance from the Zoning Board of Appeals on Stony Ford Road for the lot frontage and since this is in an RA-1 zone which is now five acre zoning and we only have 7.67 acres to begin with so we will split it down the middle with both lots would probably be around 3.8 acres a piece and then we will go for variances on the lot sizes, lot frontage and lot width on lot #2.

G. Lake: Okay.

D. Yanosh: With this economy . . .

G. Lake: Listen I'm anxious to see how you make out. I will go through the Board.

A. Dulgarian: Send him to the Zoning Board of Appeals.

R. Carr: Zoning Board of Appeals.

W. Capozella: Zoning Board of Appeals.

C. Najac: Zoning Board of Appeals.

T. Hamilton: Zoning Board of Appeals.

G. Lake: I don't have anything else.

**MOTION to send applicant to appear before the ZONING BOARD of APPEALS made by W. Capozella and seconded by A. Dulgarian.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

7. **INDIA TEMPLE FOUNDATION** - SITE PLAN REVISION - Bloomingburg Road  
(3-1-109) #44-08

G. Lake: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh surveyor for the India Temple.

G. Lake: Go ahead.

D. Yanosh: The existing temple is off of Bloomingburg Road in the Fair Oaks area next to the drive-in theater. They are requesting for an addition to the side of the building, rear of the building for an apartment for the priest. The two story addition will be built right next to it and connected to. We have to add a little more septic lines and a septic system for the increase in the usage. It will be a residence for a priest. It is not where the public comes in all the time back and forth. The landscaping is along the front and the side for his residence. I have no problem taking care of the lighting and will have somebody to check on the existing lighting since it does shine quite a bit. We will get them to comply with the code.

A. Dulgarian: Is it a two-story?

D. Yanosh: Yes.

G. Lake: I will go through the Board.

A. Dulgarian: We have done similar requests in the past. Will it be attached?

D. Yanosh: Yes.

G. Lake: Anything else, Mr. Dulgarian?

A. Dulgarian: I have nothing.

R. Carr: It will be used only for the priest?

D. Yanosh: Yes.

W. Capozella: Nothing.

C. Najac: Nothing.

T. Hamilton: Nothing.

G. Lake: They don't have school kids in there? I mean, there's no five days a week school?

D. Yanosh: No.

G. Lake: Just the normal Sunday School?

D. Yanosh: Yes.

**MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and this Board's comments made by C. Najac and seconded by R. Carr.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**  
**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

**MOTION for SITE PLAN REVISION subject to all of Mr. McGoey's comments and this Board's comments made by R. Carr and seconded by W. Capozella.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

8. **MACKENZIE** - 2 LOT SUBDIVISION - Beverly Drive (14-2-37) #35-04

G. Lake: Your name for the record, please.

J. Valentine: My name is Mr. Valentine representing the applicant.

**Unable to transcribe due to technical difficulty.**

G. Lake: Do you have Mr. McGoey's comments?

J. Valentine: Yes I do.

G. Lake: Do you want to go through them?

J. Valentine: Item #1. The applicant is seeking re-approval of an earlier approval which has lapsed. The project received an extension to final approval on July 5, 2006. Item #2. The subdivision plan has not utilized the most recent zoning district information as requested during our work session of December 12, 2008. Item #3. The two lots do not meet the new road frontage requirements requiring a two hundred foot lot frontage measured a distance thirty five feet from the center line of the road. Item #4. We were unable to find a soils formula to verify that two lots can be subdivided from this property. In addition, the boundaries of the soil types are to be superimposed on the subdivision plans. Item #5. We should discuss whether the Town continues to pursue the Rails to Trails, requiring the proposed municipal parking lot at the end of Beverly Drive. Item #6. The subdivision plan must be signed and sealed by a licensed land surveyor. Item #7. The subdivision plan does not contain metes and bounds for the interior lot line. Item #8. The Highway Superintendent is continuing to show an interest in having the parking lot available for people using the Rails to Trails. In addition, the Highway Department is requesting a consideration of a fifteen foot easement along the westerly border of Lot #2 for access to the Rail Trail. This should be discussed with the applicant. Item #9. We should discuss with the applicant who would be responsible for construction of the proposed pavement and parking area shown in the out parcel to be dedicated to the Town. Item #10. We should discuss relocating the driveway for lot #2 to avoid the twenty inch Red Maple, and a fifteen inch Black Oak. Item #11. Notes should be provided on the plan that indicates which trees will be preserved during construction. Item #12. The bulk table has inappropriately shown that the required lot size based on soils is 0.75 acres. The newly adopted ordinance, which was adopted September 15, 2007 now requires a minimum lot size of three acres. It appears that certain variances will be required. Therefore, this matter should be referred to the Zoning Board of Appeals.

**MOTION to TABLE for further review made by A. Dulgarian and seconded by R. Carr.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

9. **STEWART'S SHOPS** - SITE PLAN REVISION - 333 Tower Drive (98-1-39)  
#20-08

**Applicant did not appear.**

10. **CIESLEWITZ** - 6 LOT SUBDIVISION - Hufcut Road (12-1-96) #87-07

G. Lake: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh surveyor for the applicant.

G. Lake: Do you have Mr. McGoey's comments?

D. Yanosh: Yes I do.

G. Lake: Why don't you go through them?

D. Yanosh: Item #1. The applicant returned to a work session on December 12, 2008 at which time he informed us that the variance from the Zoning Board was denied. Item #2. A determination must be made as to where the lot frontage is to be measured around a cul-de-sac in light of the fact that thirty five feet from the centerline of the road would fall within the right-of-way of the cul-de-sac. We would recommend that consideration be given to measuring the lot frontage ten feet outside the roadway right-of-way which would be typical for a straight section of the roadway. The Planning Board Attorney should advise in this regard. Item #3. The Planning Board Attorney should advise as to whether the measurements for lot frontage can be measured around the radius of the cul-de-sac to provide for the two hundred foot road frontage. Item #4. The plans submitted have not been signed and sealed by the licensed land surveyor and/or engineer as requested during our meeting of December 12, 2008. Item #5. We should discuss with the applicant whether the proposed roadway is a Town road or open area development road. Item #6. The Planning Board should determine whether the wetlands delineation should be reviewed by the Army Corps

for acceptability in light of its close proximity to the roadway and impacts that may result in the need for a permit from the Army Corps of Engineers. This matter has been submitted for sketch discussion only.

**MOTION for SKETCH approval subject to all of Mr. McGoey's comments and this Board's comments made by W. Capozella and seconded by R. Carr.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

11. **GORDON WALLKILL 1** - SITE PLAN REVISION (Beauty Salon Use) - 390 Crystal Run Road (60-1-68.12) #75-08

G. Lake: Your name for the record, please.

J. Myrow: My name is Jay Myrow with Blustein, Shapiro & Rich.

G. Lake: Do you have Mr. McGoey's comments?

J. Myrow: Yes I do.

G. Lake: Why don't you go through them?

J. Myrow: Item #1. The proposal is for a beauty salon to occupy space formerly occupied by medical offices. The use appears to fall under the service and repair shop category in the OR zone. The Planning Board Attorney should confirm and advise as to whether a Public Hearing will be required. Item #2. The Planning Board should discuss the need for

sidewalks or otherwise a commitment to agree to the formation of a sidewalk district at some future date if proposed by the Town. Item #3. We requested during our meeting of December 22, 2008 that the landscaping be reviewed by the applicant's engineer for conformance with Section 249-100. The site plan does not confirm compliance. The Planning Board Attorney should advise whether a Public Hearing is required, if not, motion for SEQRA, etc.

J. Bacon: The way the code is written every site plan needs a Public Hearing.

**MOTION to schedule a PUBLIC HEARING for February 18, 2009 made by T. Hamilton and seconded by R. Carr.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

12. **CARRAINE** - 4 LOT SUBDIVISION - 72 Webb Road (69-1-42) #72-08

G. Lake: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh surveyor for the applicant.

G. Lake: Do you have Mr. McGoey's comments?

D. Yanosh: Yes I do.

G. Lake: Why don't you go through them?

D. Yanosh: Item #1. This proposal is for a four lot subdivision in the R1 district. The lots

according to the applicant, have availability of City of Middletown sewer. The Planning Board Attorney should advise as to whether this constitutes town central sewer as same relates to lot size. Item #2. The applicant should verify the availability of sewer from the City of Middletown. The Planning Board Attorney should advise as to any agreements that must be entered into between the Town and the City to provide sewer, otherwise whether the sewer district must be formed. Item #3. One of the four lots contains two dwelling units. One of the two dwelling units is located in the second story of the garage. Two dwelling units on a lot are not permitted. The continuation of this use should be discussed. Item #4. Future submissions should show the top and invert elevation of the existing City of Middletown sewer system as well as the finished floor and lowest sewer-able elevation of the existing and proposed dwelling units for a determination of proper elevations for gravity flow. Item #5. The proposed sewer lateral for lot #4 does not appear to tie into any existing sewer line at the intersection of South Street. The location of the sewer system in South Street or Webb Road should be verified and size, pipe, and elevation shown. Item #6. The location of the existing well and septic for lot #3 should be shown. Item #7. Future submissions should include all details of driveway construction, site distance, grading plans, drainage plans. Item #8. Future submissions should include property line monumentation including iron pins and concrete monuments. This matter has been submitted for sketch discussion only.

**MOTION for SKETCH approval made by W. Capozella and seconded by R. Carr.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**W. Capozella: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**