

TOWN OF WALLKILL PLANNING BOARD

MEETING

FEBRUARY 6, 2008

MEMBERS PRESENT: T. Hamilton, W. Capozella, R. Carr, A. Dulgarian

MEMBERS ABSENT: G. Lake, C. Najac, H. Ross

OTHERS PRESENT: J. Bacon, P. Hines

1. PUBLIC HEARING 7:30 P.M. - **QUICK CHEK** - SITE PLAN/SPECIAL USE PERMIT & TWO LOT SUBDIVISION - East Main Street (78-1-84 & 94) #76-06

G. Lake: Public Hearing started at 7:35 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 in said Town on the 6th day of February, 2008 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Quick Chek Corporation, 3 Old Highway 28, P.O. Box 600, Whitehouse Station, New Jersey 08889 for minor subdivision, Site Plan and Special Use Permit approval for a Quick Chek food store and gasoline filling station for the property located at 601 Dunning Road, and along East Main Street, adjacent to I-84, and identified on the Town of Wallkill Assessment Map as Section 78, Block 1, Lot 94, under Section 2009-8 of the Subdivision Law and Sections 249-38, 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

T. Hamilton: Will the applicant please give a presentation, a brief presentation.

H. Geneslaw: Good evening. My name is Howard Geneslaw. I'm here on behalf on the applicant Quick Chek Corporation. As you know we've been in front of the Board a number of times. The Chairman indicated he would like a brief presentation so rather than start at the beginning and show you how this has transposed over time, I'll ask the Engineer to give a brief overview of what the plan currently looks like and then we will be happy to answer any questions that you may have. The application, as you are aware is for Site Plan/Special Use Permit and Subdivision.

J. Martell: A subdivision is proposed with this application. The current property is identified

as Section 38, Block 1, Lot 38.2 of approximately forty six (46) acres. It's an old property that was owned by Distelburger's formally and we're proposing to subdivide three acres of that forty six (46) acres and create a new parcel which will have frontage on East Main Street and is immediately adjacent to I-84. The proposal is for a gasoline filling station as well as a Quick Chek food store. You may be familiar with the operation from the Route 211 application. We do propose a seven thousand two fifty two square feet food store which also contains sixteen indoor seats, a few tables for outdoor seating. As Mr. Geneslaw has said, this project has progressed throughout the last year or last year and a half, but as we stand today the food store and gasoline pumps are rotated ninety degrees. The pumps are on the side of the food store. We've also incorporated several design features included a three foot high stone wall and intended to be a field stone wall along the frontage. The entrance to the facility is in Dunning Road in response to County comments. There will be only one curb cut essentially will function as the only access to the property along East Main Street. We do have a curb cut which is located outside of the three acres that Quick Chek will be subdividing. That area in on the top of the page and essentially that will create an intersection with East Main Street. We're going to provide a small interior access drive and then Quick Chek will gain access from that interior access road. That will be located within a common easement between Quick Chek who will eventually purchase this property. There are common easements for stormwater maintenance. We are proposing a traffic signal at this new intersection that is being reviewed by the County right now and have considered conceptual approval. We're agreeable to the improvements subject to the technical documents associated with the road improvements which includes widening which we're proposing to do to facilitate the access into and out of the building at that intersection. Those plans are under review by the County technical portion of the play. The roadway plans have been incorporated into the Site Plan and were submitted to the Town. Mr. McGoey had some comments and he will review that. It's also important to note that part of a more or joint planning effort I should say by this Board and their professionals and other builder applications along East Main Street from the other traffic improvements. There is an additional improvement we're proposing at the corner of East Main Street and Dunning Road. It's a considerable distance off the site. The property is outlined in yellow on the overview of the site. That's the forty six acres that I spoke of earlier. The small three acre parcel with the white dotted line around it. You see I-84 along the bottom right of the page and East Main Street on a diagonal. The intersection of Dunning Road and East Main Street as you are all aware is approximately a quarter of a mile away from the parcel. What we're proposing is to extend the right turn lane from East Main Street. If you're traveling on East Main Street towards Dunning Road and you get to that intersection there is a signal and a turn lane. As part of the mitigation measure with the applications that are all along this corridor it seemed appropriate that this intersection should have an extended right turn lane

to facilitate the movements on East Main Street and make a right onto Dunning Road being able to assist more cars and being able to make through movements toward that signal by taking them out of the main lane and bringing more into the right turn lane. That is being constructed and paid for by the applicant as part of this application and it is part of what the County is reviewing. I thought it was important to note because it's not very obvious on the Site Plan because it's a considerable distance off-site. That's the general overview of the project.

T. Hamilton: Is there anybody from the Public who wishes to comment on this application?

A. Dulgarian: Do we want to close the Public Hearing? Wait a minute.

T. Hamilton: Your name for the record.

Mr. Brodie: I'm a neighbor of this property across the street and we have lots 22 and 21 a conceptual proposal for an access into a very inaccessible piece of land. It's a panhandle that we own. I just wanted to see that the engineers can put that in mind when they design their entrances.

P. Hines: Can you indicate the parcel on the map?

Mr. Brodie: Yes. That easement, the other one by the light there is going to be a very awkward condition.

J. Bacon: Your entrance would be closer to . . .

Mr. Brodie: Right here.

J. Bacon: Across from the existing house?

Mr. Brodie: Yes.

J. Martell: We weren't aware of your application unfortunately. We can attempt to work with you if you want to share your plans but this location has been a subject of a long process with Mr. McGoey, the County and our office. A lot of site distance analysis determining where that location was. We called Mr. McGoey actually for his profession opinion for the

driveway and it was preferred for this location. I would hope that if you can connect to that signal that would be a professional in a future application.

T. Hamilton: Mr. Brodie, I don't believe I've ever seen any conceptual or anything of that parcel that you're referring to. So, we had no idea that anything was in the works.

Mr. Brodie: May I work with him on this?

T. Hamilton: You ought to work with the Town and let us know what you're looking to do before you even talk to them. We might not even want an access there. We don't know. We've never seen a plan that even indicates anything like that.

P. Hines: This will obviously have to go back for another work session with the number of comments so, I'll let Mr. McGoey know.

T. Hamilton: But there's no application or nothing pending before us to even indicate any progress across the street to this. Anything else, Mr. Brodie?

Mr. Brodie: No.

T. Hamilton: Anybody else?

MOTION to close the PUBLIC HEARING at 7:50 P.M. made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

T. Hamilton: Will you waive the sixty two day time period based on the number of comments outstanding? We have twenty two items here on Mr. McGoey's letter and he is recommending no action. There's a lot to work out with Mr. McGoey's office.

P. Hines: There's also landscaping comments

T. Hamilton: I don't know if you've received those comments.

H. Geneslaw: Yes, we do have those. We do agree to waive the sixty two days. We can walk through some of the comments not too much the technical ones we can work out with Mr. McGoey.

J. Martell: Some of the comments are comments that came up before and we have discussed them at prior work sessions. I thought they were resolved in the work sessions. For example Behan's comments, I know that those are essentially the same as comments that had come up previously and I thought we had come to some sort of an agreement as a way to compromise and those are already shown on the plan.

R. Carr: And this is dated February 4th.

H. Geneslaw: Yes, and that repeats some of the comments that were in the prior report that we discussed in the prior work sessions.

T. Hamilton: Mr. McGoey will verify that. When you go through give us what comments you're going to address. You don't have to go through all of them.

J. Martell: From Behan's report, the planting beds fronting . . .Quick Chek is not willing to do that at this time for a couple of reasons. Mainly the landscaping around the building becomes a garbage collection area and you would have a hard time growing plants in that area. I know here in the front of Town Hall you have a similar situation.

T. Hamilton: We also have a sprinkler system here for those plants.

J. Martell: I understand. It's that it is a tough area and I think eventually it would detract from the area. We would like to prefer not to follow that recommendation. The other recommendation that was made was regarding the treatment of the retaining wall. We discussed that at a work session and what we discussed at the work session was that the applicant was agreeable to provide some extra material. It was discussed at the top of the wall may be better than at the bottom of the wall. We can take that material and split it up back and forth. The amount of material to comply with the buffer requirements. At the work session the opinion of those that it would be better on the top of the wall. With that amount of material every other tree or something and some treatment for the bottom of the wall is

something we can decide on. The landscaping in the rear along the retaining wall as well there's (not clear) adjacent to that wall which may not be useful for the grading plan. That wall will actually, what we did we planted along the outside of the retention basin for a more better screening element as opposed to planting in the base below. We did actually provide those plantings but not immediately adjacent to the wall. Again, where they're located we prefer them where they are.

T. Hamilton: Can you give us a comment letter on what you want to do and what you don't want to do and get it to us so we can forward it to Behan's office and get comments back from them?

J. Martell: Okay.

T. Hamilton: Now you can go on with Mr. McGoey's comments.

J. Martell: This is the view of the building from East Main Street. As far as Mr. McGoey's comments the sidewalk is the only one that needs . . .

T. Hamilton: Which number is that?

J. Martell: His question in comment #1, what he's saying is that we're only showing a sidewalk along Quick Chek's frontage as opposed to the entire property. It's forty six acres of property so what Quick Check is our frontage and we will have to cut a piece of the guardrail out so we can connect to the overpass. We can provide a crosswalk across the driveway that we're going to have on East Main Street. We didn't continue to push that sidewalk further. We would like to have the sidewalk along the frontage. Mr. McGoey is raising that for the Board to discuss.

T. Hamilton: What about a sidewalk for your entrance drive going in?

J. Martell: I think we can provide that. That is along the access road and I believe we would be willing to do that and connect Quick Chek to that. We have one inner connection along East Main Street.

T. Hamilton: Because once they access that other parcel gets developed further in . . .

J. Martell: We can make that change. Most of the comments are either administrative or technical in nature. I don't think we need to discuss those. The Fire Department which he

brings up in item #19. They issued a letter today. It was dated February 5, 2008. They essentially said that at this time they were satisfied and have not offered any other comments. The snow storage area Behan previously commented on those areas.

A. Dulgarian: Where are those snow storage areas?

J. Martell: They are essentially around the perimeter of the site. We kept the shrubs approximately twelve feet off the curb. We had previously put them closer to the curb. The snow storage areas are along this main curve as well as there is no landscaping between the curb and the access drive. Essentially mostly the perimeter of the site where we have twelve feet between the curb and the shrubs. There's also a large retention basin in the back and we can move some excess snow into that area as well. As far as comment #21 the irregular shape of the right-of-way in the front of the barn Mr. McGoey brought this up at a work session and we discussed it with Mr. Kennedy of the County Department of Public Works and he had said that other than current dedication which we are proposing in the area where the existing house is he stated that no additional right-of-way was required by the County at this time.

H. Geneslaw: That covers all the main issues. The other technical items we can work out in another work session.

A. Dulgarian: Getting back to the snow storage, on page nine on your snow storage plan basically all that snow storage area you're showing is within the planting with the exception of to the northerly side. You said you had twelve feet between the planting?

J. Martell: Yes.

A. Dulgarian: You're right in the planting.

J. Martell: We have a very stringent planting requirement. That material is required and we did attempt to design that would be best suited. It's a difficult condition and we won't tell you otherwise. We can bring it back up to Behan's attention possibly but she seems to be satisfied at this time.

A. Dulgarian: Can you talk very briefly about that signal, where you're at? You're saying proposed now. Are you expecting to have that signal up and running when you open or is this for future development?

J. Martell: No. That would be prior to Certificate of Occupancy.

A. Dulgarian: So, you want this light up and running when you open your doors?

J. Martell: That is part of our application as part of our traffic impact analysis. It's one and the same with the construction of the building. It would be operational prior to.

A. Dulgarian: It's just proposed.

T. Hamilton: Where are you seeing it?

P. Hines: I have it. It's on the plans. We will have to check with the County to make sure that's included.

W. Capozella: Where did that traffic signal come from? I don't ever recall it. Did the County ask for a traffic signal there?

J. Martell: We came back probably a year and a half ago and met with the County on conceptual and they asked us to provide a signal analysis with our application which we did provide. From that point the County then decided to it would be appropriate that we should have a signal and we were at a number of work sessions and presented it. I can't say that this Board recommended the signal and I can't say that we recommended it. It was a situation based on traffic impacts that was warranted and therefore asked that the application pursue simultaneous with the application. The other idea of the turning lane at Dunning Road was based on a more global look at this Board with other applicants along East Main Street and it was appropriate that we connect the signal. I believe we have a signal at Dunning Road which is being done. We're also providing the turning lane. It's part of a entire corridor improvement.

A. Dulgarian: What is your site distance eastbound from East Main Street?

J. Martell: You mean at our driveway location?

A. Dulgarian: At your driveway at your traffic light. I'm looking for your site distance coming out of your property to the right.

Unidentified Person: We didn't specifically analysis that site distance to the right with the traffic signal in sight. There's not a need for site distance to the right and having been out there I can say about one hundred feet.

A. Dulgarian: I'm wondering coming down East Main Street there at forty five miles an hour how soon are they going to see that light?

Unidentified Person: For the people traveling on East Main Street?

A. Dulgarian: Correct.

Unidentified Person: You would be able to see that signal probably about a third of the way from Dunning to that signal.

T. Hamilton: Are you going to stay with that jog that you have in there with the barn?

Unidentified Person: You would see the signal. It would be located about here. It's a pretty straight right-of-way. There's a little bit of a curve in the road so, I'm guessing the site distance would come back to about here.

T. Hamilton: Let's get figures so it's more definite on the Site Plan.

Unidentified Person: There's not a site distance requirement for that particular line of sight. In other words, as you drive up to the signal itself will be up in the air. It's not the site distance between cars at that location.

A. Dulgarian: I'm wondering how much warning they have when the light is there. It's pretty straight I guess.

Unidentified Person: Yes. We did look at some of the other site distances.

A. Dulgarian: I still don't know if I'm really satisfied with the answers.

T. Hamilton: I think . . .

Unidentified Person: We can take a look at that. It's pretty easy to scale.

R. Carr: Just one thing on the traffic. You say this light will be signalized with the other lights on East Main Street.

Unidentified Person: That's correct. This light will be interconnected with the signal at Dunning Road. We looked at connecting it with other signals further to the east and there wasn't any apparent benefit and in discussions with the Town's Traffic Engineer as well as the Traffic Engineer for the medical center project it was determined that interconnecting those two traffic signals would be a benefit. The other signals that are proposed on that other project to the east will be connected to each other. The two systems won't be connected.

R. Carr: So, this won't be connected with the light at Golf Links Road?

Unidentified Person: No because of the distance and separation between the two locations. We analyzed it both ways and there was no real difference.

R. Carr: At Golf Links Road to me this is very slow. I guess this really came from the County.

Unidentified Person: That's correct.

R. Carr: I think it's overkill trying to put a traffic light there. There will be a light at Dunning Road, at four hundred feet you have another light and about another four hundred feet you have another light and you're going to put two more lights in every four hundred feet. To me it's just seems like there should be some kind of coordination with lights. You couldn't get in into my head at a work session how that would work.

Unidentified Person: We had a subsequent work session where Mr. Kalus from Sell's was there and Mr. Griely from John Collins and we actually traded information and we developed a traffic network that included both projects. Our location requires a lot less (not clear).

R. Carr: Exactly and that's why I could never understand how you could coordinate with the others. I just think that somehow with all those lights, I can't imagine they should be all coordinated. I think somewhere here between the Town and the various applicants.

Unidentified Person: They will be coordinated separate from each other.

R. Carr: Which ones?

Unidentified Person: The one to the east of I-84 and the one to the west of I-84.

R. Carr: When you say they won't be coordinated . . .

Unidentified Person: There will be two coordinated systems.

R. Carr: These lights, they will hit Dunning first, then this, the hospital then the cemetery. I just think those lights . . .

Unidentified Person: With the traffic conditions at the medical center the signal at our location will be green really most of the time for the traffic on East Main Street. The red light will come up once needed and it will only come on when needed.

R. Carr: Okay.

J. Martell: Quick Chek's standard material is a white stucco. I remember in a work session when that was brought up and it was tossed around. We prefer to go with bricks. The two locations will somewhat resemble each other.

R. Carr: I do want to compliment you in terms of turning the way it was sighted and the landscaping

A. Dulgarian: Can I ask something?

T. Hamilton: Something new?

A. Dulgarian: No. When you said that the traffic signal will be actuated by trips coming out of your property?

J. Martell: The green light for the driveway would be actuated when there are cars waiting to make a left turn.

A. Dulgarian: So, you're going to have some sort of something actuating the trips?

J. Martell: That's right.

A. Dulgarian: Is this tied into Dunning Road?

J. Martell: Yes.

A. Dulgarian: So, if you have cars coming out of your site . . .

J. Martell: That's not the way a coordination works. The coordination between the two controllers is not based on the . . .

A. Dulgarian: They're either coordinated or they're not coordinated.

J. Martell: The overall site will be coordinated. It's just that the green light doesn't come up for side streets. In other words . . .

A. Dulgarian: So the green light comes up for the traffic street and go red on East Main Street and if it's coordinated that means Dunning goes red also on East Main Street?

J. Martell: No.

A. Dulgarian: So, they're not coordinated?

J. Martell: They would be coordinated in terms of when the Dunning signal goes green and when the timing at the site signal would go green but most of the time the site signal will remain green for East Main Street.

A. Dulgarian: Okay. I will let you move forward.

T. Hamilton: The traffic at the work session straighten that all out.

W. Capozella: Don't we normally on the plans even though we've done a traffic study we have on there the number turning right and left. You don't have that it one there. We know about the traffic signal. I mean, it just took me by surprise about that traffic signal.

J. Martell: The County reviewed it.

W. Capozella: Nothing further.

T. Hamilton: I have nothing. Hash out the rest at a work session.

MOTION to TABLE for further review made by A. Dulgarian and seconded by W. Capozella.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

2. **HAIR BY SEBO** - SITE PLAN (Extension to Final) - 795 Route 211 East (43-2-22.11) #43-04

T. Hamilton: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh surveyor for Hair by Sebo. We got approval in July for Site Plan but we've been with the Department of Transportation. We're almost done. I got the final comments from them on the stormwater basin we're putting underneath the pavement. Hopefully in a week or so we will get final approval from them and then we will have the plans signed. We run out at the end of the month.

A. Dulgarian: Did you get your paperwork in time?

D. Yanosh: Yes.

T. Hamilton: Mr. McGoey's comments.

D. Yanosh: Yes. I did submit a new set of plans. I'm waiting for the final plans from the Department of Transportation, but I do have a set now I can give to you. It has everything on it that he wanted addressed. I took care of the landscaping and all we're waiting for is from the Department of Transportation.

P. Hines: A lot consolidation?

D. Yanosh: All I have to do is I'm waiting for this stuff and for the deed to be drawn up and have the attorney consolidate the lots. I'll make that a condition as long as Mr. McGoey is okay with the comments.

J. Bacon: Mr. Yanosh, I just thought that if there's a lot consolidation typically it's a subdivision. The County is going to want it

D. Yanosh: If it was contiguous we could file a new deed to put those together.

J. Bacon: Yes, I know they used to do that but on one of the latest amendments for a lot consolidation. That way it will be approved as a subdivision

T. Hamilton: Mr. Bacon, on our record here July 12, it's listed as a lot consolidation.

J. Bacon: Oh, did he get that?

T. Hamilton: And, a Negative Declaration.

D. Yanosh: It may be approved but do I have to bring it to Goshen to show them that the lots are consolidated?

J. Bacon: Yes.

D. Yanosh: Okay. I will take care of that when I submit my final maps.

T. Hamilton: What happened with the Engineer's comments from July 7th?

D. Yanosh: Yes. They will be submitted when I'm finished with the Department of Transportation.

T. Hamilton: Is it part of the Department of Transportation paper work?]

D. Yanosh: No. I didn't want to submit it for review and then have to review again when I got the Department of Transportation approval. They were minor.

T. Hamilton: One other question. Do you meet all of the current new zoning now which is part of us giving an extension?

D. Yanosh: This is in a Highway Commercial zone. I don't think they changed it.

T. Hamilton: How about the landscaping? There is a whole new section on landscaping regulations.

D. Yanosh: The landscaping was approved by Behan's office in July 2007 and this letter came back to me August, 2007.

T. Hamilton: You're asking for an extension. You're running out and you're asking for an extension. In order for us to extend your request you have to meet all current zoning, correct Mr. Bacon?

J. Bacon: Yes.

D. Yanosh: When was the new zoning for the landscaping adopted?

T. Hamilton: Just check to make sure.

A. Dulgarian: Nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

MOTION for a SIX MONTH extension on CONDITIONAL FINAL made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

3. **ACCESS MINI STORAGE** - SITE PLAN/SPECIAL USE PERMIT (Extension to Final) - Gibbs Court (50-2-66) #56-06

T. Hamilton: Your name for the record, please.

G. Bergman: My name is Gerald Bergman. I'm an Engineer with Clough Harbor Associates and we represent Access Mini Storage. We're here requesting a six month extension to our Conditional Final. We have submitted all of the drawings with the technical issues. Right now, the only thing we're waiting on is a developer's agreement. Mr. Bacon and I have been in touch with each other on that. That just needs to be straightened out.

T. Hamilton: Architectural renderings and so forth?

G. Bergman: Yes.

P. Hines: The architectural renderings were just to add a detail around the entire building. Apparently he reviewed it but wanted that note put on.

G. Bergman: Okay.

T. Hamilton: And item #4 about the outside storage.

G. Bergman: It's on there.

A. Dulgarian: I have nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

T. Hamilton: I have nothing.

MOTION for a SIX MONTH extension to Final SITE PLAN/SPECIAL USE PERMIT made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

4. **TOWER SELF STORAGE** - SITE PLAN/SPECIAL USE PERMIT - (Extension to Final) - Tower Drive (40-1-67) #55-04

T. Hamilton: Your name for the record, please.

A. Fusco: My name is Al Fusco with Fusco Engineering representing Tower Self Storage. We also are seeking an extension to our approval. We have recently in December submitted a new set of plans which we believe are very complete for the engineer to review but we're here to request an extension.

T. Hamilton: When did you submit them?

A. Fusco: I believe it was December 12, 2007.

T. Hamilton: Item #2, Mr. McGoey is asking for plans.

P. Hines: I have a set here dated January 17, 2008.

A. Fusco: We had received a hand written notice from Mr. McGoey that he had received it.

T. Hamilton: He's saying that revised plans must be submitted addressing our technical review comments of March 14, 2007 and March 19, 2007.

A. Fusco: They have been done. I have a copy of a letter here that was sent to the Planning office. The revised plans are dated November 26, 2007. The submittal was in December because we wrote a letter. Do you have those Mr. Hines?

P. Hines: No.

A. Fusco: I did receive about a week ago a hand written notice that Mr. McGoey had received the plans. In fact, I called right away about it.

P. Hines: Was the drainage report sent over with that?

A. Fusco: There was a drainage review on it, yes.

P. Hines: The new set.

A. Fusco: Yes.

P. Hines: It could be on another desk.

A. Fusco: I have a set for you here if you want them.

T. Hamilton: Now you're looking for a six month extension on both of them?

A. Dulgarian: I have no problem with that. What about the detention pond?

A. Fusco: That has all been taken care of.

A. Dulgarian: Okay.

A. Fusco: Apparently he hadn't had a chance to review it. Currently on the detention pond there's two hundred plus or minus square feet of any wetland disturbance. It was more before but we've got it minimized down to two hundred.

A. Dulgarian: What about the location?

A. Fusco: That's what it was. We moved it over.

A. Dulgarian: Okay.

A. Fusco: And, the other comments that he had just recently are on the plan that we submitted on December 12, 2007. I can show them to Mr. Hines right now.

A. Dulgarian: Moving it over, can you still keep from the road? That was the whole thing, we wanted to get it out of sight.

A. Fusco: The detention pond? It's on the bottom part of the property but it was the wetland area that was a concern. Some of the berm was into the wetlands. So, what we did was we moved it over.

A. Dulgarian: Does the berm have screening?

A. Fusco: Yes, it has screening.

P. Hines: There's an existing pond there also, isn't there?

A. Fusco: There is an existing one there also.

J. Bacon: Verify that it meets all current zoning.

A. Fusco: Okay.

MOTION for a SIX MONTH extension of SITE PLAN/SPECIAL USE PERMIT and to make sure that it meets all the existing current zoning made by A. Dulgarian and seconded by W. Capozella.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

5. **LITTLE PUMPKIN** - SITE PLAN/SPECIAL USE PERMIT - Gordon Wallkill Building - Crystal Run Road & Goshen Turnpike (60-1-68.11) #103-07

T. Hamilton: Your name for the record, please.

M. Blustein: My name is Michael Blustein, representing the applicant.

T. Hamilton: Go ahead.

M. Blustein: This is the corner strip over where the pharmacy and deli currently are.

R. Carr: Now, when we were talking it's a day care center.

M. Blustein: This is going to be a nursery as opposed to a day care. Day care's are approved by the State of New York and they have special licensing permits.

R. Carr: Can you elaborate on that just a little bit?

M. Blustein: If you look at your code, a day care center is a facility licensed by the New York State Department of Social Services and provides more than three hours. A day care is more of a long term type of thing. The nursery we're proposing is for short-term. It's not like anyone being dropped off and staying all day or one to two hour classes. That's the difference between a day care and a nursery. Day care is more of an all day type where licensing is needed by the State whereas a nursery is more of a class type facility and come in for shorter periods of time without being left there all day while the parents are at work.

A. Dulgarian: The age range?

M. Blustein: These children are likely to be between one and three years of age.

T. Hamilton: Mr. Bacon, is that listed on one of our lists for that zone?

J. Bacon: I don't have my book with me.

M. Blustein: It's in the new OR zoning that says a Special Use Permit for day care and nursery.

R. Carr: Does the code define nursery?

C. Schneider: Yes.

M. Blustein: The definition of nursery is an instructional facility for pre-school children usually between ages three and five providing care for less than three hours. Less than three hours is the difference from longer hours. These are more for one or two hour classes.

R. Carr: What will the hours of operation be?

C. Schneider: My general hours of operation is nine thirty to about one in the afternoon and I have one class with children younger.

R. Carr: How many square feet?

C. Schneider: Eighteen hundred square feet.

M. Blustein: The actual square footage is nineteen hundred forty seven square feet. This will be taking the space of John Lease who are moving over to the Wallkill Town Center.

T. Hamilton: I will go through the Board.

A. Dulgarian: Not right now.

R. Carr: That parking lot has never been full so I don't know when it's fully occupied. There are new parking regulations.

M. Blustein: Actually the parking creates surplus space because of this use. It was approved for a medical use and required a lot of parking. This use actually decreases the amount of spaces needed. It does decrease the amount of parking.

R. Carr: Nothing further.

W. Capozella: Usually on these we like to look at the drop off area. Nothing else.

P. Hines: It will have to go to the County because Goshen Turnpike is a County road.

MOTION to schedule a PUBLIC HEARING for March 5, 2008 made by R. Carr and seconded by W. Capozella.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

6. **RSR** - SITE PLAN/SPECIAL USE PERMIT - Ballard Road (41-1-70.21) #16-07

T. Hamilton: Your name for the record, please.

T. DePuy: My name is Thomas DePuy with DePuy Engineering. Basically we're back in front of the Planning Board and we were granted approval for an expansion in the front of the building. It was to accommodate some additional offices, locker rooms and showers. One the architect did the interior layout the footprint had to grow from about forty five hundred square feet to six thousand two hundred square feet. Basically what's happened is the building used to be shaped like this and they need to expand this additional area here in order to accommodate the interior for what they want to do with the showers and lockers. We're going to eliminate this twenty thousand gallon diesel fuel tank. That will be removed from the site and we're going to install a smaller five thousand tank right over in here now because this existing generator can only be used for standby power so there's no need for that much diesel fuel on the site. We re-aligned the driveway as it was before to accommodate coming in through here. Basically it's a Site Plan modification for this addition to the building.

T. Hamilton: I will go through the Board.

A. Dulgarian: So, what you're saying is the addition you're seeking is strictly for office space and locker rooms, that type of thing with no additional equipment or additional anything?

T. DePuy: No. That was the original intent of the . . . I think we had forty five hundred square feet now and now it's six thousand six hundred thirty four square feet.

A. Dulgarian: So, it has nothing to do with the other approval you recently got?

T. DePuy: No. We were granted this approval previously before we came back for the Special Use for the roof mounted items.

A. Dulgarian: So, it has absolutely nothing to do with that?

T. DePuy: No.

A. Dulgarian: Other than your issues, any sort of lot coverage or anything like that?

T. Hamilton: Anything other than Mr. McGoey's comments?

P. Hines: Mr. McGoey's comments, you have an issue regarding the vehicular traffic along the front. Show the dimension there and then show where the relocated tank will be.

T. DePuy: We're going to actually eliminate this twenty thousand and locate a five thousand tank back here. We will also clean up the front of the building. We will give the dimension in here. We will probably slide this modular off toward the back slightly during construction and then that will be removed from the site.

P. Hines: Will the new landscaping requirements affect this at all?

J. Bacon: Have you looked at the new landscaping requirements?

T. DePuy: It doesn't affect this. It's when you get closer to residential. We can review that but I don't believe it's for this area.

W. Capozella: You say you're going to move that twenty thousand tank and where will it be?

T. DePuy: We're actually going to remove this one and install a new one here. They will have to get a modified permit from the Department of Environmental Conservation for that. We can make that a condition.

W. Capozella: Can it be put on the plan?

T. DePuy: Yes. We'll actually be having less diesel on the site.

T. Hamilton: Back to an old question I brought up before your previous approval and unfortunately I wasn't here when you got your last approval but I had asked how much of your re-mediation have you completed and finished with the Department of Environmental Conservation?

Spokesman for RSR: We've taken that back over with the Department of Environmental

Conservation. They are working on that currently.

T. Hamilton: Who's working on it?

Spokesman for RSR: Our environmental department out of Dallas.

T. Hamilton: That was my question when you came in for that first approval and my concern was why spend money on this stuff when you should be spending it on the re-mediation and is hazardous for the people living near your project. Now you're spending more money and you still have not finished your re-mediation. That's my problem. Also, from what I understand, the Citizens Advisory Committee, what happened to that? I've heard that it should be re-enacted, some people who were on it. They kind of lost contact with what is happening on that project especially since it has not been re-mediated.

J. Bacon: Can you provide an update?

Spokesman for RSR: I really can't answer your questions on where that stands. I will gladly forward your information. I don't have any knowledge of that.

T. Hamilton: It's been ever since we found out that the site was contaminated a citizens committee was formed to try and monitor what was happening and that it would be re-mediated through the Department of Environmental Conservation and so forth. The last I remember from articles I read in the newspaper that this facility was claiming they didn't have the money to continue with the re-mediation. I'm not sure but it never continued in the format that it was supposed to and to this date it hasn't been finalized or finished yet. Yet, you're still expanding on the project. Shall we table it or get us some documentation on the re-mediation?

A. Dulgarian: If you feel that strongly about it.

T. Hamilton: I think we should until we get some more paperwork on the status of the re-mediation of this site.

Spokesman for RSR: I thought that was discussed during the Special Use Permit in 1984.

T. Hamilton: What did they discuss?

Spokesman for RSR: They discussed that the State was taking it back over for the re-

mediation requirements.

T. Hamilton: When is it going to be done? There were time frames on the original and the reason the time frames never worked was the applicant was claiming they didn't have the money.

MOTION to TABLE for further review made by T. Hamilton and seconded by A. Dulgarian.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

7. **KUNIS BEVERAGE STORE** (Frosty Rock) SITE PLAN/SPECIAL USE PERMIT
259 Dunning Road (50-2-43.1) #104-07

T. Hamilton: Your name for the record, please.

M. Blustein: My name is Michael Blustein and with me is Mr. Schultz and Mr. Kunis.

T. Hamilton: This is here for sketch plan only. Do you have Mr. McGoey's comments?

M. Blustein: We do. Item #1 is just defining what we want to do on the site. Item #2 is regarding the slope and I will leave that for the engineer to address.

B. Schultz: We have in our possession a few technical reports as well as boring logs and geotechnical reports for both buildings on either side of this proposal. From the ice cream stand the boring showed glacial (not clear) of six feet and that is obviously the closer point to the beverage proposal location. The Cellular One store the boring showed glacial fills eighteen feet or so. When you draw the line across you can say with a good certainty that the soils are going to be fairly consistent and they're not going to be very far down before you will hit

those glacial fills. We can have a firm footing for the building on the slopes.

M. Blustein: With respect to the comment obviously the engineer will be meeting with the Building Inspector and Mr. McGoey's office. They're confident that the soils are sufficient to build on it with two buildings up and this one will be in the middle so it would be as good on one side and no worse than where the Cellular Building is and this building will be designed in any event to accommodate whatever the soils are. If it's a concern by Mr. McGoey then it will be address with the engineering.

P. Hines: I haven't seen the geological report so, we can certainly look at those. I do have a concern looking at this with regard to the grade issue and the parking and I also believe the Fire Department will also have an issue. It's busy parking in the front and no access to the rear. That's something you're going to have to work out.

T. Hamilton: In fact, is it safe to assume that we're building on one end of the lot and building on the other end of the lot that the soils are all the same?

P. Hines: No.

T. Hamilton: I didn't think so. That answers my question.

P. Hines: I think you need to clarify that sewer line also, the easement area to make sure you're not building anywhere near that with a retaining wall holding up the bank.

T. Hamilton: And, the comments on the basement level about including it?

M. Blustein: Yes. I think that if you read the code that the comment is inaccurate. This is a retail store so, if you read the definition of floor area it says floor area not including cellar space except cellar space within a commercial or industrial building. The definition of cellar as opposed to basement cellar is a storage partially underground having one half or more of it's clear height below the finished grade. A cellar shall not be considered in determining the permissible number of stories in a building. If you read the definition between a cellar and basement since this is going to be a cellar just like the ice cream store and the Cellular One store they're not included within the calculations. So, I think Mr. McGoey's comment is an error in that we've previously done the two buildings the same way with the cellar not counting because it's retail and not commercial or industrial. If you read the code as I just recited it's not included.

P. Hines: I'm looking at it and how much it's going to affect the grading. The majority of

that building and the retaining wall are on the slopes.

M. Blustein: That's going to be an engineering issue and they're telling me it's going to be a cellar.

B. Schultz: The grading will be drawn up for whatever grade we need.

P. Hines: You know what I'm saying.

B. Schultz: Yes. I understand at the back of the structure where the cellar level would be and as described in the code it will be exposed in the back.

P. Hines: There's thirty feet of topography.

A. Dulgarian: Have you been on that site?

B. Schultz: I've been by it, yes.

T. Hamilton: By it? Driving by it?

B. Schultz: Well I've been driving by.

T. Hamilton: You can't see the back.

B. Schultz: I've been through the stores but I haven't physically walked up and down the hill.

P. Hines: I think we will need the finished floor elevation put on there so we can take a look at that.

T. Hamilton: What do you plan on doing to bring your beverage trucks in and so forth and being able to unload?

B. Schultz: It's just curb side drop off, basically. There's no requirements for loading or unloading.

F. Kunis: We're going to use curb side drop off and a hand truck.

T. Hamilton: You're going to take up all those parking spaces and park crossway because

you're not going to be able to get a truck in.

F. Kunis: The deliveries will be in the morning before the others open.

T. Hamilton: How are you going to get your deliveries in?

F. Kunis: The beverage trucks would pull right in front and we would just remove from the beverage trucks. It's not a wholesale place where you're going to have loading docks or anything like that. It's a retail operation.

T. Hamilton: I've seen beverage stores around here and they all have a big truck that comes around and you're going to wheel in by the front door and take up how many parking spaces?

F. Kunis: Actually we were going to put a garage door on the side.

T. Hamilton: It's not in there.

P. Hines: A tractor trailer hauls beverages.

F. Kunis: No, it's not tractor trailers. It's a regular bay truck. We're not having tractor trailers unloading. It's not like a Dana Distributors but much smaller retail.

P. Hines: A beverage truck can show up anytime.

T. Hamilton: Now, they're probably going to have it parking right in the driveway, etc.

F. Kunis: We will have to figure out some type of loading then.

T. Hamilton: Has Mr. McGoey looked into this?

P. Hines: I don't believe so but you may want to get to the Fire Department sooner than later. They're going to have an issue getting anywhere near that building.

R. Carr: That's a good point.

T. Hamilton: You need the soils checked out. You have the note on the soils?

B. Schultz: I do.

P. Hines: The grading for the loading area, soil concerns

T. Hamilton: The comment about the width of the sidewalk?

M. Blustein: I think that's being done.

B. Schultz: Yes. The footprint of the building can be moved to increase the size of the sidewalk so that there is access. I think I have a new plan here that shows we moved it over eight feet just to show that it can be done.

P. Hines: Do you need some variances?

M. Blustein: I don't think we need any variances. In the past we had come to this Planning Board where the Cellular One is and we came in for a bagel shop and I think we had twenty less spaces than what was required and we had a bunch of evidence about when the bagel shop was opened, etc.

A. Dulgarian: And none of that happened, by the way.

M. Blustein: Well, we didn't build the bagel store.

T. Hamilton: No but now you're talking about a store with more hours than the bagel shop.

A. Dulgarian: You were approved for this site based on the two operations and the hours of operation.

M. Blustein: I understand

A. Dulgarian: And, that never happened. That's what was sold to us.

M. Blustein: No, no. With the Cellular One we didn't have to come back because the retail use there was enough parking. When we came in for the bagel store we needed more parking but when they put in the Cellular One store they met the code. Nobody "shistered" the Planning Board and got approval for the bagel store and then put in Cellular One.

A. Dulgarian: When we went with this configuration, a long straight line, it was with the

argument that two businesses would be operated at closing hours.

F. Kunis: Correct.

M. Blustein: It's going to be the same thing. We were chatting while you were talking about the deliveries.

F. Kunis: The ice cream store doesn't open until noon. The delivery trucks will be in the morning so when they come and drop off.

A. Dulgarian: Depending on how the route is for the trucks.

F. Kunis: Usually if you're a "C" license store, they get to you in the morning.

M. Blustein: So, what we're saying is according to the code we only have six spaces left for the whole project. With the ice cream store opening at noon and not getting busy until five o'clock in the evening we're saying that we're going to meet that section of the code that says that if the Planning Board finds, just like you did the last time, that the uses are consistent with when one is being used the other one isn't.

T. Hamilton: The other thing with the ice cream store also is when it did come before us it was a seasonal type of operation and now I see ads in the newspaper where you're open all winter now making ice cream cakes and selling other stuff. I see somebody shaking their heads. Have you read the ads in the newspaper saying selling ice cream cakes now.

Unidentified Person: Yes, but we will explain.

T. Hamilton: When we were told it was going to be closed in the winter.

F. Kunis: What we're doing right now is we have a wholesale ice cream cake and we also have an ad in the newspaper trying to sell ice cream. There is really nothing anybody can do in an ice cream place during the five months of winter. There are no more than two cars there. I don't care if we gave away ice cream. What we're doing is we have a mortgage there and we're just trying to develop a wholesale ice cream cake. If we're there making ice cream cakes we might as well sell them to the retail also. We're only actually opened four hours a day. There's never a mass of people coming there.

T. Hamilton: Are you going to set him up for a work session through your office?

P. Hines: I think so. It sounds like they need to.

F. Kunis: Can I say one thing? I just answered this question before about the parking lot. Basically when we first got this site approved we were going to have a landscape business and an ice cream store. That was the original approval. Then what happened, and we had enough parking for that.

A. Dulgarian: But you never made it for this stuff?

F. Kunis: Yes we did.

A. Dulgarian: You might have gotten to a work session.

F. Kunis: We came here and got approval for the landscape business and an ice cream stand. We had perfect parking and didn't need anything. Then what happened is, the person who did the landscaping backed out. We then came to you with the bagel store after the site was completely done and running. That's when we needed, it wasn't a variance I guess you adjusted . . .

M. Blustein: If the Planning Board found that it was compatible uses at different times because I remember the comment from Mr. Dulgarian was finally somebody gave us what we were looking for. We brought in all the evidence of the bagel store, etc.

R. Carr: Yes but it never happened.

M. Blustein: The bagel store never signed the lease so we had to switch gears. We went back to the Cellular One and that conformed to the parking. There was no need for any variances because it conformed.

R. Carr: What's going to happen with that building now?

M. Blustein: This will go in the middle of the two existing buildings.

R. Carr: And there's six spaces.

M. Blustein: Six spaces left than what's required. Cellular One requires very little parking.

R. Carr: This is really ambitious. It's a real tight spot. The deliveries no matter what you say

about being delivered in the morning. It's just a lot more traffic in and out. You have the delivery issue, some engineering issues and the Fire Department.

M. Blustein: But, I think it does conform to the zoning. I understand your concerns about the Fire Department and some of the other concerns. I think it can work. Mr. Kunis does have beverage centers and he does know how they work. Most people that are coming in to buy wholesale beverages are doing it for parties and buying in bulk. They usually come in on the weekends. If you're having an evening party, you buy your beverages in the afternoon. The ice cream business doesn't get busy until after five o'clock.

P. Hines: My only concern is it may be more than six spaces. If you will note where the dumpster location is there's three of the parking spots located immediately in front of the dumpster. It's not typically allowed by this Board.

A. Dulgarian: I agree with Mr. Carr. It's very ambitious. I don't like it at all. I think that this property is not conducive to something this size on there based on the topography and the soils. I would really have to be sold on that property.

M. Blustein: I think at this point and hearing what the Board is saying it make sense. Send us back to another work session. We will meet with Mr. McGoey and see if we can make it work and we know what your concerns are and we will try and address them.

MOTION to TABLE for further review made by A. Dulgarian and seconded by W. Capozella.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

8. **SMITH** - TWO FAMILY - SITE PLAN/SPECIAL USE PERMIT - 214 Watkins

Avenue (38-12-5) #106-07

T. Hamilton: Your name for the record, please.

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

T. Hamilton: Go ahead.

D. Yanosh: This is one of the lots as a two lot subdivision that was approved by this Board a couple of months ago and filed on October 25, 2007. Mr. Smith owns the lot and he lives next door also. He wishes to convert the new house that he wants to build from a single family to a two family. The variances that were granted to create the subdivision are still valid although there is one that I think we need to address and that's the lot frontage. It's changed from one hundred feet. Now it's one hundred feet and we only have eighty three feet of frontage.

A. Dulgarian: What do you mean by a lot buffer?

D. Yanosh: There was no such terminology. We got a variance for the lot width. They only dealt with lot width back then but all of a sudden now it's lot frontage. Two family homes has no distinction in the zoning book in the R-1 zone.

P. Hines: They are two different things. The lot width is measured at the building setback line.

T. Hamilton: We will have to send him to the Zoning Board of Appeals.

A. Dulgarian: I think a two family house on this sized lot we haven't allowed in the past and I would be against it. When it came before us for the subdivision, the intent then was for a single family. We've had a few of these before and denied them. I think it's an ambitious plan and I don't like it.

R. Carr: I would have to look at the area. I certainly think that you will have to go before the Zoning Board of Appeals. It is ambitious that's for sure.

P. Hines: Fifteen feet of the eight three feet for the common driveway easement also for the adjoining house.

A. Dulgarian: Not on this piece?

P. Hines: Yes. Has an easement. This driveway is encumbered by the easement.

A. Dulgarian: Okay.

W. Capozella: I don't think it should move forward until he goes before the Zoning Board of Appeals.

T. Hamilton: Let's see if they get the variances first before we schedule a Public Hearing.

MOTION to send applicant to the ZONING BOARD of APPEALS made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

9. **LeBARON WAREHOUSE** - SITE PLAN/SPECIAL USE PERMIT - Goshen Turnpike (60-1-24) #49-05

T. Hamilton: Mr. Fine, LeBaron is not on.

G. Fine: I have the letter.

T. Hamilton: No, it was cancelled.

G. Fine: I never got anything.

M. Hunt: Mr. Lake had called me and told me to take it off.

T. Hamilton: I thought you were with the prior applicant.

G. Fine: It's not too complicated.

T. Hamilton: Real quick, even though we made you sit here all evening.

G. Fine: It's on the warehouse on Goshen Turnpike. We were here and went before the Zoning Board of Appeals. Let me address the hardship of the matter. In the code under the OR zone there are four (4) by right activities or uses. We've been going around in circles for a while but in my mind I took the portion of the code that fits and that's where we would be a licensed (not clear). My client owns a foundry and there are very few left. We're talking about antique cars. He's capable of making parts for antique cars that you can't buy anymore. Where he is now in Goshen the property doesn't meet his needs. It's not suitable. So, we're looking for a place that can house his antique cars. I think it would be an asset. I don't see why we can't move forward.

T. Hamilton: I remember when this first came in it was strictly to store his own antique vehicles.

G. Fine: That's something that has developed over a period of time. It's become clearer and clearer that there's a need for this.

J. Bacon: There was a meeting before the Zoning Board of Appeals where (not clear). Whatever you choose to go under on the Planning Board is really the one to make a determination on whether you're a service shop or a repair shop. The Zoning Board of Appeals in their findings as said that you're a repair shop.

G. Fine: If we come in here following the code (not clear).

A. Dulgarian: You're asking us to interpret.

G. Fine: Why?

T. Hamilton: We're not allowed to interpret the code. The Zoning Board of Appeals has that right.

J. Bacon: If you're claiming that you're a dealer now you have to go before the Zoning Board

of Appeals and convince them that you're a dealer for whatever the code says. You have to convince them. This Board doesn't have any jurisdiction really to make that decision.

G. Fine: That you for your time.

Attorney for the applicant appeared unaware that this applicant had been cancelled. He spoke to the Board for a few minutes and we were unable to assist him at this time other than having him go back before the Zoning Board of Appeals for their determination of the code.