

TOWN OF WALLKILL PLANNING BOARD

MEETING

FEBRUARY 16, 2005

MEMBERS PRESENT: G. Lake, W. Capozella, R. Carr, A. Dulgarian, T. Hamilton,
P. Owen

MEMBERS ABSENT: None

OTHERS PRESENT: D. Brodsky, D. McGoey

1. PUBLIC HEARING 7:30 P.M. - **SCHWAB MOTOR VEHICLE** - SITE PLAN/SPECIAL
USE PERMIT - Route 17M (36-1-39) #44-03

G. Lake: Public Hearing started at 7:34 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 600 Route 211 East, in said Town, on the 16th day of February, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Alfred Schwab, ECS Auto, Route 17, Middletown, New York 10940 for approval of addition of 2,400 square foot garage to rear of property on Route 17M under Section 249-38 of the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/ G. Lake, Chairman

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

C. Foti: My name is Cecil Foti with Fusco Engineering.

G. Lake: Do you want to tell us since the last time you were here I think there were a couple problems with the map?

C. Foti: Mr. Schwab has an existing dwelling on Route 17M in the Town of Wallkill. He's proposing to put up a building in the back for auto repair to handle repairs on sales from his store.

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

A. Dulgarian: Not at this time.

P. Owen: I will wait.

R. Carr: I will wait.

W. Capozella: After the Public.

T. Hamilton: After the Public.

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

R. Paduch: My mother owns the property behind the Schwab property and they're talking about and I'm concerned about what's going to happen with the right-of-way that we have in the back. My concerns are whether we still have the right-of-way in case we want to build back there. The property is still opened for possible building. My other concern is also the parking and whether or not this is going to use the right-of-way for parking spaces.

D. McGoey: You don't show a right-of-way.

R. Paduch: The right-of-way along the side. That's a landlocked piece of property back there. The only way to get in there is that road.

G. Lake: Is it a deeded right-of-way?

R. Paduch: Yes.

G. Lake: Mr. Brodsky?

D. Brodsky: That's up to the property owner not to obstruct the right-of-way but it appears to me that you might just from a traffic flow how that's going to work.

R. Paduch: There's another house right next to it.

G. Lake: Let's hold up a minute. You're not going in there anyway?

C. Foti: No.

G. Lake: If they have a legal deeded right-of-way, they have to live by that.

R. Paduch: And, the parking back there is not going to be on that road?

G. Lake: No.

D. Brodsky: He is showing landscaping which will have to be removed.

R. Paduch: I would like to see a map.

C. Foti: We've produced a survey drawing map which was requested by Mr. McGoey that actually shows a right-of-way.

A. Dulgarian: Why don't we have that map?

G. Lake: Do you have anything else Mr. Paduch?

R. Paduch: No. Basically to get that right-of-way cleared up.

G. Lake: Thank you.

C. Foti: We had just received a survey from Mr. Robert Delaney that shows the right-of-way, fifteen feet in width along the southern boundary of the lot. It's not shown on the Site Plan but it does show on the survey plan that we just received.

G. Lake: So, you're saying it runs the entire length now?

C. Foti: That is correct.

G. Lake: Our plans show it goes up a little bit then curves in.

C. Foti: Actually, the way the right-of-way is stated in the deed is that part of that driveway is off the right-of-way.

T. Hamilton: How much of it is on there?

G. Lake: Can I ask you something?

C. Foti: Sure.

G. Lake: I'm sorry Mr. Hamilton. So, the map we have does not show exactly what's out there yet. That was one of the comments when you were here the last time. I think Mr. Fusco was at that meeting and not you.

C. Foti: That's correct. The physical attributes of that are based upon the survey. Everything that is shown on there is on the survey now. It's the idea that the fifteen foot right-of-way did not crop up until a few days ago.

D. Brodsky: Does that right-of-way service any of these properties behind lands?

R. Paduch: It services a house across the street.

D. Brodsky: How about the Gruner Property?

R. Paduch: There's a small house in the front across from Mr. Schwab who is probably using it a little bit.

D. Brodsky: Is there another easement that currently covers the dirt driveway?

A. Schwab: Not that I'm aware.

D. Brodsky: Not a recorded easement but there may be an easement of necessity which the Board would have to take into account. Is there any other access to the Gruner property besides this dirt driveway?

A. Schwab: This property is the lands of Paduch and this is the deeded right-of-way through my property to allow them to access through there.

D. Brodsky: So, you have a second easement besides the fifteen foot right-of-way?

A. Schwab: No. Gruner's have encroached upon our line coming through. He has a right-of-way through the property adjoining to us.

D. Brodsky: Through the Hamilton property?

A. Schwab: That is correct.

D. Brodsky: But the driveway actually (not clear).

A. Schwab: It has eroded down on to us.

D. Brodsky: How long as that dirt driveway existing that way?

A. Schwab: I would say probably about three or four years.

D. Brodsky: The Board will have to . . .

G. Lake: I'm sorry.

D. Brodsky: The Board obviously will have to consider that because if you're creating . . .

G. Lake: The driveway or the easement?

D. Brodsky: The access and the direction of the flow of traffic and also your landscaping encroachments which the owner can't put a shrub in the middle of an easement to obstruct it.

G. Lake: Anybody else from the Public at this time?

MOTION to close this PUBLIC HEARING at 7:45 P.M. made by A. Dulgarian and seconded by P. Owen

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

G. Lake: Let's go through Mr. McGoey's comments. The land survey, that's the official one right there?

C. Foti: That's correct. That is the survey plan.

G. Lake: When did we receive that?

C. Foti: That has not been received. We received these comments February 7, 2005 and basically were to prepare.

G. Lake: The only thing I'm going to say is that the last time you guys were here and I can't remember who was representing this applicant but the survey and the exact building, other Board members went out to the site, examined it, and realized what was shown at that point was not what we were seeing the night you were here. So, the last time you were here which was about a month ago, whether it was you or Mr. Fusco, but you were told that night to provide an "as built" drawing and a proper survey. So, let's not use a week ago that you received these comments when it comes to the survey.

C. Foti: Item #2. We requested that the drainage clearly define to show how the site will be created to catch stormwater flows into the catch basin proposed. Spot elevations can be used for this purpose.

G. Lake: Has that been cleared up?

C. Foti: Basically, the current drawings show spot elevations.

G. Lake: What about the stormwater flows and the catch basins, are they on the plan? Mr. McGoey, have you seen it?

D. McGoey: I haven't looked at it yet. I will have to check it before the maps are signed.

T. Hamilton: Do you have a new one?

D. McGoey: I don't.

T. Hamilton: We don't have a new one either.

G. Lake: Comment #3.

C. Foti: A note should be placed on the plan which indicates that motor vehicle repairs are for the sole support of the sales in the retail portion of the premises only. A note will be placed on the sales indicating from sales only.

G. Lake: In other words, anything being sold in the front will be the only type of service rendered.

A. Schwab: Right.

C. Foti: Item #4. Mr. Fusco indicated that a guide rail should not be required although discussed by the Planning Board. Mr. Fusco indicated that this area is wooded which would prevent cars from going down the slope.

D. McGoey: Yes I have to agree. I don't think they need it.

T. Hamilton: What about that slope? Is that a stabilized slope?

D. McGoey: He has a pretty wide buffer from the edge of the driveway.

T. Hamilton: What's going to hold that slope there because it looks like it was just dumped there?

R. Carr: Yes, that was added since the first time. A lot of that was added.

A. Schwab: That's just a little bit on the surface area. That driveway has been a wide driveway for a significant amount of time. We did some grading.

G. Lake: It's been there for a while.

R. Carr: It seems soft on the edge.

A. Schwab: I will disagree with you because there's an interior that comes out to there and that's always been existing. The drain is not covered because it has a rubber cap over it.

G. Lake: Between now, Mr. McGoey can double check it to make sure.

R. Carr: Yes. That was my concern for the guard rail.

D. McGoey: I will go back out and re-check the slope.

R. Carr: Okay.

C. Foti: Item #5. The square footage in the rear of the retail, in which the applicant shows as storage space, has not been included in the parking calculations. It is now shown on the plans for the back of the building warehouse.

D. McGoey: Did you add more parking spaces because I haven't seen it?

C. Foti: No. In fact, by putting that as warehousing in the back the calculations allows us to decrease one parking spot.

D. McGoey: That doesn't seem right. You have two service buildings. Another gentleman from Fusco Engineering explained to Mr. McGoey.

G. Lake: Continue while they are checking the plans.

C. Foti: Item #6. Concrete bumper blocks are not generally approved by the Planning Board. Therefore, they should be removed from the map. We've deleted the concrete bumper blocks as requested. Item #7. The handicap aisle space in the front parking lot is not dimensioned as eight (8) foot as required by the ordinance. This has been corrected. Item #8. We recommend that landscaping be provided in the front of the building. We do show minor landscaping in the front. We're right up against the right-of-way and we're showing some very minor landscaping. Item #9. Concrete right-of-way monuments and iron pins are to be shown. We will show one concrete monument in the front and two iron pins in the back. Item #10. The applicant's engineer is to

submit a clear copy of a catalog cut showing the shielding for the lens on the lighting fixture proposed. That will be submitted.

G. Lake: Mr. McGoey, the square footage?

D. McGoey: They reduced the retail square footage and increased the warehouse square footage.

G. Lake: Okay. Let me go through the Board.

A. Dulgarian: Several little issues and now we got a new situation with the right-of-way. My main concern . . . I don't have any problems with him doing what he wants to do. I think it's a natural for what he's doing there. Having said that, we have to make it as nice as we can. One of my biggest concerns is that the traffic flow there, now he had one in and one out which is perfect considering the width but now I'm interested to see how we're going to do something with that. Another big concern is, Mr. McGoey, we're basically covering almost one hundred percent of this property with building and blacktop and we had a problem with water flow out there not necessarily all from his but coming from the neighbors and I was concerned about an erosion problem on the back and the side. What do we do with that and what is the, you're not allowed to discharge any more than the property does now? Does that apply here and if so, (not clear).

D. McGoey: They're going to have to review it. I don't know how significant it is.

A. Dulgarian: That's one of my concerns. The other thing is we were looking at a little landscaping here. I don't think he can do anything along the front but where he has the pylon sign if that could just be dressed up and something around that sign because that's like the only place you can actually do something. I know it's a pre-existing business and it's a very nice and acceptable business but when ever anybody comes back before us we try to get it dressed up a little bit and I think that's like the only spot we can do anything. My other concerns are what was brought up before about the landscaping along the side. I don't know how you would do that. Mr. Dulgarian questioned a line on the plan.

C. Foti: Unable to hear.

A. Dulgarian: That's all I have.

P. Owen: Obviously the traffic flow is an issue and traffic going through the right-of-way. What I would like to see is a map and a plan that is detailed before we go any further.

R. Carr: I still have a concern with the slope. In the back that's a steep slope there. But I think if it's

strong enough to hold. They are very steep in the back. I also have concerns with the drainage.

W. Capozella: I don't have any issues as far as the use for the property. I'm going to reserve what we do with the comments that came up that will have to be resolved.

T. Hamilton: Mr. McGoey on that driveway on either side, that's sufficient enough for his deliveries and what ever else to get up through there?

D. McGoey: Twelve feet is for one way traffic. The ordinance requires an equal number for the traffic.

T. Hamilton: The trucks for deliveries?

D. McGoey: The trucks, he can get into the back.

T. Hamilton: Where is he going to unload to supply the existing store in the front?

A. Schwab: Quite frankly, we can never turn a tractor trailer around the back there. Everybody backs down and then we start at the end of the building and unload from there. We can never turn around in the back under the existing circumstances.

T. Hamilton: In the back of your existing store you have parking spaces there now.

A. Schwab: All of our deliveries for the most part are in short rigs coming down through and we get it into the back door on the right hand side of our existing building. When we've gotten tractor trailers they generally back down the right hand side and unload at the end of the building.

A. Dulgarian: The tractor trailers are not as common as boxed trucks?

A. Schwab: That it correct. It's very rare that we get a tractor trailer in.

T. Hamilton: Mr. McGoey, we didn't need anything from the railroad on where they filled in on that side slope or anything?

D. McGoey: They should have contacted them if they filled in on their property. I'm not sure they do encroach.

A. Schwab: I don't believe so.

G. Lake: Anything else?

D. McGoey: There are issues especially with the traffic flow.

D. Brodsky: I think we need to actively identify where the second right-of-way is, first of all. That should certainly be resolved.

G. Lake: Are you going to need copies of the easement and everything from the other land owners to figure this out?

D. Brodsky: I think if it is put on the survey, that should be acceptable. If the Board would like me to read it against what ever documents are recorded I certainly can do that but I'll just be.

G. Lake: As long as you can handle it.

D. Brodsky: I will be happy to do that.

G. Lake: To make sure that his property.

D. Brodsky: We can verify very easily whether the second easement against his property by having a title search done and if it shows up then we will that there's an easement against his property which will have to be reflected on the map.

G. Lake: Okay. Your recommendation is to table this for further action?

D. Brodsky: I would say that we should have them waive the sixty two day time frame and try to investigate this by getting the title work and updated plans so that we can see how we're going to avoid obstructing the easement that he obviously has.

G. Lake: Let me go through the Board.

A. Dulgarian: I think there's still some outstanding issues. I still would want Mr. McGoey to continue. The project is acceptable but we only have one shot to get it right.

G. Lake: I agree with you. I think everybody is for it.

A. Dulgarian: Maybe we can get him back on the agenda as soon as we can.

G. Lake: Will you waive the sixty two day time frame?

A. Schwab: Do I have to?

G. Lake: If you say you're not going to waive it and then we will take a vote?

A. Schwab: I don't have a problem.

G. Lake: We're going to try and get you back on but by the same token in defense of this Board and I don't do this very often, if you read item #11 which stated that this matter has been scheduled for the February 16th Public Hearing. Revised plans are to be submitted fifteen (15) days prior to that date. (The applicant promised to have plans over nighted to our office for February 8th). We were promised an overnight shipment of plans and stuff so we would have them fifteen days in advance. You weren't here so you take it up with Mr. Fusco. I don't normally say things like that. Now, there are a few comments that came up tonight that we can't solve. So, you do waive the sixty two day time frame?

A. Schwab: Yes.

D. McGoey: He should have another work session.

G. Lake: Call the first thing in the morning and she will try to get you on the earliest possible work session so we can get you back on. I know you want to get going.

A. Schwab: I have a question for the Board. What is the issue with the traffic flow as far as why do we have to have an in and an out? Why can't we just use the common in and out?

D. McGoey: Because you don't have sufficient width for two-way traffic on that side of the building. You only have width for one way traffic.

A. Schwab: Understandably but why can't we just use stop and go.

T. Hamilton: We haven't done that yet.

G. Lake: Unfortunately, it's a safety issue and you can turn around and sell this tomorrow and then there is someone beating us over the head for allowing it to happen.

A. Schwab: Understandably but as far as Mr. Paduch's right-of-way through there, that is two-way traffic for him already.

G. Lake: Call in first thing in the morning to get on a work session so we can get this squared away.
MOTION to TABLE for further review made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

2. PUBLIC HEARING 7:35 P.M. - **WARNER** - SITE PLAN/SPECIAL USE PERMIT
Prosperous Valley Road (3-1-83.2) #139-04

G. Lake: Public Hearing started at 7:55 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 600 Route 211 East, in said Town, on the 16th day of February, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Sal Incorvaia, 8 Marwood Drive, Poughkeepsie, New York, 12601, for approval of a Site Plan Approval and Special Use Permit for the construction of an approximate 7,500 square foot Garage for equipment storage on an approximate 1.5 acre parcel located on the North side of Prosperous Valley Road, 720 feet +/- West of Bloomingburg Road, Section 3, Block 1, Lot 83.2, in the PID zone, under Section 239-38 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.

D. Yanosh: My name is Dan Yanosh, surveyor for the project and with me is Mr. Incorvaia.

G. Lake: Okay. Go ahead, give us a brief description.

D. Yanosh: It's a proposed metal building and Mr. Incorvaia is a mason contractor. He needs a building over here to store his forms, his scaffolding, and his materials inside. That's all he does. He goes out and does block work on sites, finishing the job, brings some materials back inside and stores them inside. There won't be any outside storage at all. That's why he wants this building.

A. Dulgarian: Is that on the map anywhere?

D. Yanosh: Yes, note #8.

T. Hamilton: No outside storage?

D. Yanosh: Yes, no outside storage. He wants to keep it inside, locked up, out of sight, out of mind, and secured.

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

A. Dulgarian: After the Public.

P. Owen: I will wait.

R. Carr: Nothing.

W. Capozella: I will wait.

T. Hamilton: After the Public.

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

MOTION to close this PUBLIC HEARING at 8:07 P.M. made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

G. Lake: Mr. Yanosh, do you have Mr. McGoey's comments?

D. Yanosh: Yes.

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

D. Yanosh: We have no problem any of the end sections, inverts, the width of the aisles. We cut down the lighting in front. We will put two probably in the front. It is one hundred feet off the road. The rest of the stuff is the driveway profile, the architectural. We do have, it will be just a plain metal building. I don't know what color yet. It will be screened pretty good. Do you know the color yet?

S. Incorvaia: A buff color.

D. Yanosh: Again this Site Plan is contingent on the Subdivision Approval which is the next item on the agenda.

G. Lake: Let me go through the Board.

A. Dulgarian: Mr. Yanosh, are you sure you don't want to cut a flag lot off of this?

D. Yanosh: Positive. Not now.

A. Dulgarian: It's not going to change the characteristic of the pattern of the development out there.

P. Owen: I'm fine with it.

R. Carr: I have no problems.

W. Capozella: I don't have any problems.

T. Hamilton: How many floors?

D. Yanosh: Floors? One floor.

T. Hamilton: One floor. It appears awful high in the rendering with the windows up above. I was curious if there was another floor up there.

D. Yanosh: No. Just for extra interior lighting.

G. Lake: We do have one comment from the Highway about the driveway pipe and section detail should be noted on the plan.

D. Yanosh: That was one of Mr. McGoey's comments also.

G. Lake: All of Mr. McGoey's comments, you have no problem with?

D. Yanosh: Correct.

G. Lake: With no other comments . . .

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

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

SITE PLAN/SPECIAL USE PERMIT approval subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

3. **WARNER** - 2 LOT SUBDIVISION - Prosperous Valley Road (3-1-83.2) #134-04

G. Lake: Your name for the record please.

D. Yanosh: My name is Dan Yanosh, surveyor for the project. This will be a two lot subdivision which will create the lot of which we would put the building on.

G. Lake: Let me go through the Board.

A. Dulgarian: No problems with it.

P. Owen: It's looks okay to me.

R. Carr: It's fine.

W. Capozella: It's okay.

T. Hamilton: No problem.

G. Lake: Do you have any problems with any of the comments?

D. Yanosh: No.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and the Highway Superintendent's comments made by T. Hamilton and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for a TWO LOT SUBDIVISION subject to all comments made by P. Owen and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

4. **NICAJ** - SUBDIVISION (Extension to Conditional Final) - Sands Road (14-2-22.3)
#40-01

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

R. Ferris: My name is Roger Ferris representing the applicant. I am requesting a six month extension to Final Approval. Mr. Nicaj is planning on building and he needs the season when the weather breaks to do that construction.

G. Lake: Do you have all the approvals necessary?

R. Ferris: They're in process. He's attorney is working out the details to give to the Town Attorney and we need the districts approved.

G. Lake: Let me go through the Board.

A. Dulgarian: First extension?

R. Ferris: Yes.

A. Dulgarian: No problem.

D. McGoey: No.

R. Ferris: We received approval in July.

D. McGoey: I have June 2003 for a one year extension.

R. Ferris: That was Preliminary Approval.

D. McGoey: Preliminary Approval. Okay.

P. Owen: Did we receive his request in time?

R. Ferris: Yes.

P. Owen: No problems.

R. Carr: No problems.

W. Capozella: No issues.

T. Hamilton: He's got everything covered under item #2 of Mr. McGoey's comments?

D. McGoey: There was also an issue raised by the Highway Superintendent. I guess there's a question about the paved swale. You requested a waiver from that?

R. Ferris: I'm not aware of it. I will talk to Mr. Lippert about it.

D. McGoey: You're going to be doing a scale?

Mr. Nicaj: We're going to be doing a (not clear).

D. McGoey: That's not something we normally do.

Mr. Nicaj: According to the Highway Superintendent, I met with him and he agreed.

D. McGoey: He said that the Planning Board may desire to extend the pavement width to thirty (30) feet. Apparently, he's asked the Highway Superintendent if he could just install fabric and item #4 with the swale and, the Highway Superintendent is saying that the Board may want a thirty foot width and then the swale.

G. Lake: What did we approve?

D. McGoey: We approved a full thirty feet with three foot swales on each side.

G. Lake: It would be thirty feet plus the swales.

D. McGoey: It would be thirty feet now plus the swales.

G. Lake: And, that's what we approved?

D. McGoey: No. We approved thirty feet with the swales.

G. Lake: Paved swales?

D. McGoey: Yes.

Mr. Nicaj: But, the Highway Superintendent prefers a grass swale.

G. Lake: I think what Mr. McGoey is now telling you that's not the Highway Superintendent's call necessarily to change what this Board and you have agreed to. So, if you want to do that it means that you would have to make a new application to come back and then we will take those comments under advisement with the Highway Superintendent. But, as of right now the extension will be as it stands.

R. Ferris: Okay.

D. McGoey: Make the pavement width thirty feet and then the unpaved swales if he approves.

G. Lake: Is six months going to be enough?

R. Ferris: If we could get a year that way we make sure we get the building up.

G. Lake: Mr. Brodsky, can we give a year?

D. Brodsky: We can do a six month extension.

MOTION for a SIX MONTH EXTENSION subject to Mr. McGoey's comments being worked out made by P. Owen and seconded by W. Capozella.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

5. **ELDERLY WOMAN LLC** (Extension to Final) - Rykowski Lane (60-1-84) #65-04

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

G. Hluchan: I am one of the owners for this project. I'm here before you this evening to request an extension to Site Plan and Special Use Permit that was granted. In the ensuing time, we finally managed to close on the project in the Fall so, we really didn't get under way with our architectural design until just about six or eight weeks ago. I have for you the preliminary designs that are under way and hopefully we will conclude the process and get in the ground some time this Spring.

G. Lake: How about Mr. McGoey's other comments? About the electric and gas.

G. Hluchan: Both electric and gas are on our side of the curb line but we will have to get into the roadway to get to sanitary and water.

D. McGoey: Is your side on the section of the road that was dedicated to the Town?

G. Hluchan: To the best of my knowledge, it's already been dedicated.

D. McGoey: The other. He's on the dedicated portion of the road.

G. Hluchan: Right.

D. McGoey: What's going to happen with this technically un-dedicated portion?

G. Hluchan: Which I believes starts right at the end of the Dermatology building.

G. Lake: I will go through the Board.

A. Dulgarian: First extension?

G. Hluchan: Yes.

A. Dulgarian: No issues.

P. Owen: No problem.

R. Carr: No problem.

W. Capozella: Nothing.

T. Hamilton: Nothing.

MOTION for a SIX MONTH EXTENSION subject to all comments made by P. Owen and seconded by T. Hamilton.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

6. **BANTA** - SITE PLAN/SPECIAL USE PERMIT (Final Approval) - Route 211 East & Tower Drive (41-1-32.3) #12-04

CANCELLED.

7. **MALMARK** - 3 LOT SUBDIVISION - Lybolt & Gordon Roads (12-1-2) #149-04

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

L. Potter: My name is Lorraine Potter with Lanc & Tully. Malmark is proposing two lot subdivision. This is on a portion of the Petersen farm located at the intersection of Lybolt & Gordon Road. In Mr. McGoey's comment there is a question as to whether or not this is considered a two or a three lot subdivision. The lots that we're proposing are subdivided on the cross road on the side where the barn is located. The portion to the south also is a portion of the tax lot in the Town of Wallkill which has a brook running through it. That portion will be made part of lot #1. Across the street is the attached portion of the road going to the Petersen residence. That portion will be made a part of the parcel to remain with the Petersen home. Lot #2, we have a portion of that lot is within the Town of Crawford. This will be going to the Town of Crawford for approval of that portion of the property to be separated from the remaining farm in order to provide for that to go with lot #2. In actuality, we're creating two lots for residential purposes and the remaining lands will remain with the existing house which is in the Town of Crawford actually.

R. Carr: Right now, the barns are on a separate lot than the house on the other side?

L. Potter: The house itself is located in the Town of Crawford.

R. Carr: On the same piece of property but the same lot.

L. Potter: No. The house itself is not, it's under the same ownership, the tax parcel. The house is not on the Town of Wallkill tax map.

G. Lake: Let's all get together and have Mrs. Potter explain.

Mr. Malmark: The two lots in question were approved before the moratorium on April 5th.

G. Lake: If it was done within the past ten years, it makes it a major subdivision now.

D. Brodsky: I can research it. There are two issues here. One, is whether it is subject to the moratorium and if those two lots were subdivided off the larger parcel prior to the moratorium less than ten years, it would become a major subdivision and would have to go through the major subdivision process.

L. Potter: Continued to explain the map to everyone.

G. Lake: Everybody back to your places. Mr. Brodsky, I guess the big question at this point, obviously the road does create the subdivision by itself. Are these two new lots going to make it a major subdivision?

D. Brodsky: My position would be that if the road created a subdivided lot, then it's already been subdivided. It's existing with the road there anyway. They're only applying for a two lot

subdivision because they're together. How long has the road been there?

L. Potter: Forever.

D. Brodsky: So, if in fact that's the case then that already existed. So, they're only really proposing one additional line separating what was approved.

G. Lake: My next question for you also, and Mr. McGoey, since this whole piece on the other side with the original farm house is on the other side of the road, that's not even part of it then?

D. McGoey: The part of the house parcel?

G. Lake: Yes.

D. McGoey: Yes.

L. Potter: The Town line is there.

D. Brodsky: They're not changing anything.

G. Lake: This other piece that you're talking about up in the front in the Town of Crawford isn't that the same situation?

L. Potter: It's the same situation but I have to get . . .

G. Lake: Approval from the Town of Crawford?

L. Potter: Exactly.

G. Lake: Let me go through the Board to see if anybody has questions on this.

A. Dulgarian: Mr. Brodsky, this does not form a lot because it's on the other side of the road?

D. Brodsky: Again, there's a prior minor subdivision in addition to. It appears to be a major subdivision.

R. Carr: It looks like a natural subdivision to me.

D. Brodsky: But it's all still part of one tax lot because they're breaking them off.

L. Potter: Explained to Mr. Brodsky.

G. Lake: Mr. Dulgarian?

A. Dulgarian: I just want advise on that. I want to make sure we're not approving a major subdivision without a Public Hearing. I want it to go through the proper procedure.

D. Brodsky: These two that were previously subdivided, did they have the same tax map designation as the lots that are also in the Town of Wallkill that you are seeking to subdivide?

L. Potter: Previously, yes.

D. Brodsky: That's your answer. It will be a major subdivision. If it was all under one tax map and two were taken off.

L. Potter: Major in the Town of Wallkill, is what?

P. Owen: Three lots or more.

L. Potter: Three or more. Even if it was under.

D. Brodsky: It's part of the same property.

A. Dulgarian: That's all I have.

G. Lake: Then, we will have to schedule a Public Hearing.

P. Owen: Why don't we just schedule the Public Hearing on it.

G. Lake: Mr. Dulgarian, do you have anything else?

A. Dulgarian: No.

P. Owen: No.

R. Carr: No.

W. Capozella: I guess I still have a question about that. I'm sure they're going to get the approval for that lot #2 but do we still approve a subdivision without knowing.

G. Lake: They will have time to get that straightened out.

T. Hamilton: They need the right-of-way to get into that lot.

G. Lake: It's part of that anyway. That's what is confusing, it is a portion of it. That is in both the Town of Wallkill and the Town of Crawford so she has to let them know.

W. Capozella: I understand that.

G. Lake: Mr. McGoey has thirteen (13) comments. Are you going to be able to straighten them out between now and the Public Hearing?

L. Potter: Yes. I do have one question. Item #5. We have talked with Mr. McGoey in regards to demolishing the barn and the storage shed prior to signing of the plans. What we would like to do instead is provide a note, two notes actually, that the pole barn be removed prior to the sale of either lot #1 or #2 and then that the barn on lot #1 would be removed prior to obtaining a Building Permit. This would give time to save a portion of the barn and relocate horses and then demolish it prior to the issuance.

D. Brodsky: The reason for having it removed was that the Board is not creating a violation of the code. That's why we don't allow the plans to be filed until that's removed.

D. McGoey: Mr. Brodsky and I were talking about this. The pole barn is crossing the property line. That has to be removed before you sign the maps. The barn isn't in violation until they build the house.

L. Potter: Right.

D. McGoey: The barn could come down before they get their Building Permit.

G. Lake: Right.

D. McGoey: That's what you're asking for?

L. Potter: Right.

D. McGoey: The pole barn has to come down before the maps are signed.

L. Potter: Okay. That will be very helpful.

G. Lake: Is that okay with everyone?

D. Brodsky: Unless they want to move the lot line.

G. Lake: It's coming down anyway.

L. Potter: The other comments I can take care of.

G. Lake: We have comments from the Highway Superintendent I will give you.

L. Potter: I will discuss the comments from the Highway Superintendent with him.

MOTION to schedule a PUBLIC HEARING for April 20, 2005 made by P. Owen and seconded by W. Capozella.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

8. **CHRISTIAN MISSIONARY CHURCH** - SITE PLAN REVISION - County Route 78 (69-1-48.1) #67-04

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

J. Dillin: My name is James Dillin, surveyor for the project.

G. Lake: Tell us what you want to do.

J. Dillin: What we have before the Board, we're proposing to build a 30 x 40 foot parsonage. There's an existing church on the property right now off of County Route 78. Last month we went to the Zoning Board of Appeals and got a variance to set the accessory building in the front of the front line of the existing church and also to enlarge the accessory building to 30 x 44. We have a note on the plan that states that.

G. Lake: Do you have Mr. McGoey's comments? Mr. Brodsky, are you going to need a municipal agreement?

D. Brodsky: I spoke with Mr. McLaughlin and he doesn't feel that one is necessary.

G. Lake: Why? I'm just curious.

D. Brodsky: I guess it's because they don't have to go over any town roads in order to get to the property. If The Board would like, I can certainly get one within the next couple of days but that was the advise to me.

G. Lake: My only comment there is anybody else out that way, we have been asking for the municipal agreement to protect not only the Town but the people that are developing.

D. Brodsky: If that's what the Board wants, make it a condition and I will make it happen. That was his advise based on his representation of the Town Board.

G. Lake: We've been doing it and I don't see any reason why we would stop here.

D. Brodsky: Okay.

G. Lake: That's my opinion.

P. Owen: I agree.

G. Lake: Are there any other concerns?

MOTION for a NEGATIVE DECLARATION subject to all comments made by W. Capozella and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for SITE PLAN REVISION subject to all comments made by P. Owen and seconded by A. Dulgarian.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

9. **JAIDEN ESTATES** - 17 LOT SUBDIVISION - Bart Bull Road (31-1-29.4) #81-02

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

T. Olley: My name is Thomas Olley, engineer for the applicant. We're here to request the Board to re-schedule the Public Hearing for this project. It had been scheduled for November, the moratorium law was passed which then led to this Board cancelling the Public Hearing. The applicant has filed with the Board the appropriate documents that say that they will abide by any changes to the regulations.

G. Lake: The problem is, we can't set the Public Hearing.

D. Brodsky: We had to stop at just before the Public Hearing stage. I mean, we can get you cleaned to a point where it's ready for a Public Hearing.

G. Lake: I think the best we can do, at this point, first off we have until the end of next month to see what will happen. We don't know yet. The best we can do now is for you, there are fifteen comments from Mr. McGoey, is to go back to a work session, clean the items up and bring it back. Let the Board look at it again but that's as far as we can go.

T. Olley: Can the Board authorize the Chairman to schedule the Public Hearing once that moratorium is lifted because it's all set. It was already scheduled for a Public Hearing and I have no problem with sitting down with Mr. McGoey at a work session to clean up some more of these items or all of these items.

G. Lake: I personally was not in favor of this waiver because I just thought it was going to waste people's time and get their hopes up they were going to get right up to Final Approval with subject to's.

T. Hamilton: It's only up to Preliminary. We can't even give a Preliminary Approval.

D. Brodsky: I think we have to wait until the moratorium is lifted so if they're going to another work session anyway it's only going to be another month and a half if it's not extended and certainly the Board at that time can schedule the Public Hearing.

T. Hamilton: He's giving you the chance to at least proceed with the work session and whatever else.

T. Olley: Okay. I do have one question maybe the Board can enlighten me on. I don't want to go through all of Mr. McGoey's here because most of them we can handle. It's the introduction of a new Town law on the contiguous area.

D. McGoey: Depending on how that is going to be worded. We just want to forewarn you that it may impact. You might want to go to the Public Hearing on it.

T. Hamilton: They had it already.

T. Olley: So, they had a Public Hearing on that so there's an introductory law and they haven't made a decision on it.

T. Hamilton: Not yet.

MOTION to TABLE for further review made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

10. **COUNTRYSIDE MEADOWS** - 14 LOT SUBDIVISION - Weld Road (3-1-23.2) #36-04

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

A. Pacione: My name is Albert Pacione and Larry Torro, the engineer for the project. Mr. Chairman, I have a suggestion because our situation is identical to the previous applicant before you.

G. Lake: Right.

A. Pacione: You have every authority to conduct the Public Hearing and leave it open. You can continue the Public Hearing. You still would have jurisdiction on the matter if you continue the Public Hearing and not violate the terms of the moratorium.

T. Hamilton: Not according to our attorney.

D. Brodsky: No. We checked with the Town Board with the Town Attorney and that's not their representation. Furthermore, to keep a Public Hearing open for potentially an indefinite period of time is, when particularly the Town Board is considering a new code and may affect this application. It just doesn't make sense. We can get the application up to a point where a Public Hearing for Preliminary Approval is possible but certainly to go beyond that.

A. Pacione: All I'm suggesting is scheduling it and then keep it open and leave it until the moratorium is lifted.

D. Brodsky: It just is not consistent with the standards we have been given.

A. Pacione: Even if the code does change, there is no right to the applicant to even if you do conduct the Public Hearing is kept open. It just would save a meeting or two.

D. Brodsky: But if at the Public Hearing, it's not ready for a Public Hearing. That's the problem.

A. Dulgarian: I don't think we need to get into a debate here. We have advise from our counsel and that's good enough for me.

D. Brodsky: I think the waiver actually addresses that issue also.

G. Lake: Which you have signed?

A. Pacione: Yes.

D. Brodsky: This Board is not looking to slow down the application. We're just looking to be in compliance with what the Town Board had approved.

L. Torro: The moratorium, theoretically is supposed to end April 4th if it doesn't get extended?

G. Lake: I believe March is the end.

A. Pacione: Miss Ingrassia told me April 4, 2005.

G. Lake: Okay. I would be more than willing to put you on for an April meeting to continue if the moratorium is lifted. I think we've already done a lot of things.

L. Torro: Yes. It is now down to four or five comments.

G. Lake: We need that and the next step would be the Public Hearing.

L. Torro: I will deal with these few comments and get the plans back to Mr. McGoey and then see where the moratorium goes.

G. Lake: And then, like I said, we will try and put you on the first meeting in April. I will give you the latest comments from the Highway Superintendent so you have them.

MOTION to TABLE for further review made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

TOWN OF WALLKILL PLANNING BOARD
2005

FEBRUARY 16,