

TOWN OF WALLKILL PLANNING BOARD

MEETING

FEBRUARY 18, 2009

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

MEMBERS ABSENT: None

OTHERS PRESENT: J. Bacon, D. McGoey

1. PUBLIC HEARING 7:30 P.M. - **GORDON WALLKILL** - SITE PLAN/SPECIAL
USE PERMIT REVISION - Hair Salon - 390 Crystal Run Road (60-1-68.12) #75-08

G. Lake: Public Hearing started at 7:37 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 99 Tower Drive, Building "A", Middletown, New York 10941 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Gordon Wallkill Associates for approval of a change of use of 730 +/- square feet of an existing building from office use to a hair salon use at the premises located along Crystal Run Road, situated on tax map number 60-1-68.12 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/Gary Lake

G. Lake: Your name for the record please.

J. Myrow: My name is Jay Myrow with Shapiro, Blustein & Rich and with me is Anthony Trochiano with Pietrazak & Pfau.

G. Lake: Give us a short description of what you want to do and then we'll go through the Board and the Public.

J. Myrow: This is an application for a Special Use Permit. It's for a hair salon and it's in an existing building known as Gordon Wallkill Plaza off of Crystal Run Road. The building exists. It's existed for years. A seven hundred fifty foot space. It's a special permitted use, the hair salon I think it will have two chairs?

Unidentified Person: Three.

J. Myrow: Three chairs with a relatively low impact.

G. Lake: Let me go through the Board.

A. Dulgarian: I reserve my right to comment after the Public Hearing.

H. Ross: After.

R. Carr: After.

W. Capozella: After.

C. Najac: After.

T. Hamilton: After.

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

MOTION to close this PUBLIC HEARING at 7:40 P.M. made by H. Ross and seconded by A. Dulgarian.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

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

J. Myrow: Yes I do.

G. Lake: Would you like to go through them?

D. McGoey: Do you have a problem with item #2 putting notes on the sidewalk district?

J. Myrow: No. We agreed on the other buildings so as long as the district is formed we have no problem adding the notes and participating.

D. McGoey: And, the engineer, did he check the landscaping requirements against the new code?

J. Myrow: We're going to ask the Board to waive that. There's no exterior improvements. We're just putting in a tenant. I believe under your code you're allowed to waive a full site plan review. I would hope that this type of application is not going to trigger a Site Plan approval. We believe the landscaping is in and it should be adequate. It might not meet the other requirements but at some time in point when we may have to do exterior improvements we would ask the Board to waive that for this applicant.

D. McGoey: Comment #4. There have been changes made to the Site Plan which was received on February 5, 2009 from that which was submitted and received on January 6, 2009 however there has not been a revision date placed on the plan. The applicant's engineer should highlight the changes made to the Site Plan and put a revision date on the title block.

J. Myrow: Mr. Trochiano advised me that he didn't think there were changes.

D. McGoey: The parking calculations shown before are different from the previous and the total number of spaces for the overall parking.

J. Myrow: From our original submission?

D. McGoey: Yes.

J. Myrow: We're put a revised date on the plan and re-stamp it.

D. McGoey: I didn't see any problems with it but I was wondering if there were other changes so I needed to see those highlighted.

J. Myrow: Assuming that's acceptable to you on the final map we will check that.

D. McGoey: And, that's all I have Mr. Lake.

G. Lake: Let me go through the Board.

A. Dulgarian: It has very minimal impact. I believe it's a good use for that location and as long as Mr. McGoey is satisfied than I don't have any issues.

H. Ross: Yes. I think it's a good location. You can hang a plant in the window otherwise I don't have anything else.

R. Carr: Yes. I have no issues.

W. Capozella: I have an issue with the landscaping but other than that I'm okay.

C. Najac: No issues.

T. Hamilton: No issues.

G. Lake: And, I don't have any. I think it's a good use for it.

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for SITE PLAN/SPECIAL USE PERMIT REVISION subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

2. **P&O** - SITE PLAN/SPECIAL USE PERMIT - Extension to Final Approval - Riverside Drive & Rykowski Lane (60-1-95) #78-07

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

T. DePuy: My name is Thomas DePuy with DePuy Engineering representing the applicant.

G. Lake: Go ahead.

T. DePuy: We're here in front of the Board to ask for an extension on P&O Associates and basically we have amended the Site Plan slightly. We want to reduce the Phase I project to a five thousand square foot building. We had a build-out of fourteen thousand at one time but we now want to reduce the first phase down to a smaller portion of the building. Basically that's all the client could get.

G. Lake: Is this your first extension?

D. McGoey: Yes. He got approval on February 20, 2008.

G. Lake: Are you being held up in any agencies or anything?

T. DePuy: No. We wanted an extension because of the stormwater management review. I got a hold of Mr. Guertin and we're working on that right now. Once I have that we will be ready to move forward on the project.

G. Lake: Let me go through the Board.

A. Dulgarian: Tell me, is this exactly as approved or is this a reduced square footage building?

T. DePuy: We had a two phased project. I think we had a ten and fourteen so now we want to make the first phase five thousand.

A. Dulgarian: But it's just like it was approved? Isn't that a Site Plan change?

D. McGoey: Yes. It's a modification.

A. Dulgarian: Mr. Lake, I have no problem with it because it has less of an impact.

G. Lake: Yes.

A. Dulgarian: Now, when he comes back he has to go for another Site Plan because we're modifying it this time. Now, when he comes back and if he wants to make that building bigger it's another Site Plan, right.

D. McGoey: Mr. Lake has not yet signed the original approval yet.

A. Dulgarian: So, we need to make sure everything is in order in that respect as well.

D. McGoey: Yes.

T. Hamilton: Right now he doesn't have any.

D. McGoey: Correct. He received a conditional approval.

T. DePuy: The intent is to build this and that's why I brought it in for an amended Site Plan.

A. Dulgarian: Whatever you're looking for . . .

T. DePuy: Yes, I understand.

A. Dulgarian: Whatever you're looking for that's what we need to do.

T. DePuy: Okay. If he wants to go back to the larger building I will have to come back.

C. Najac: How long will it take for Lead Agency?

T. DePuy: The only item I didn't have was the stormwater management.

H. Ross: I just want to make sure that we're very clear on what you're leaving here with. I think you're leaving here with an extension for the change proposed so if you want to go back the other way again for whatever reason. You're more or less walking away from . . . I only have one question. Does he really need an extension for the change in the plan?

J. Bacon: I think what you should do is to call it a Site Plan modification along with an amended Negative Declaration. The Special Use would stay the same.

H. Ross: We will have to extend the time again.

J. Bacon: The time would start from tonight.

H. Ross: I'm okay with it.

R. Carr: Just one question. Is this is the original parking?

T. DePuy: No. We actually reduced the parking back according to the square footage.

R. Carr: Okay.

T. DePuy: The other parking lot actually came way out to here.

R. Carr: I have nothing further, Mr. Lake.

W. Capozella: I'm okay with it.

C. Najac: I'm okay with it.

T. Hamilton: Now, the phasing part when did that start?

T. DePuy: I think we straightened that out at the last work session.

R. Carr: I think he had said at one point he might ask because there was some question behind the building.

T. Hamilton: My other question is I've been in and out of that Rykowski Lane and a lot of these medical office buildings that are there all of the double booking of patients even though the parking is according to our regulations the parking spaces are not there because of the double booking of patients and they're out in the road. I see it every day. Make sure you have enough to cover.

T. DePuy: It's a little different type of business

T. Hamilton: I just wanted to bring it up because I see it every day. Maybe put three or four more parking spaces additional might help.

G. Lake: How many spots do you have?

T. DePuy: I believe we have twenty two spots.

G. Lake: And, is he going to produce this product there?

T. DePuy: Yes. That's how we broke it down. We also broke it down with employees also.

G. Lake: Some of is they're going to be assembling or fittings?

T. DePuy: Yes.

T. Hamilton: I've been through this and sometimes it's a long process.

G. Lake: Anything else, Mr. Hamilton?

T. Hamilton: No.

G. Lake: I don't think the downsizing is really the major problem. I do agree with Mr. Hamilton about putting a few more parking spots in even if its in that banking sense and then if you need it you can very easily add on. Basically we're going to give you a modification on the Negative Declaration and we're going to give you a modification of the Site Plan and Special Use Permit. They will be new as of tonight since we are actually talking about a different Site Plan with downsizing.

MOTION for a MODIFICATION NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and this Board's comments made by H. Ross and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for a MODIFICATION of SITE PLAN/SPECIAL USE PERMIT subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

3. **SKY RIDGE SUBDIVISION** - Extension to Preliminary Approval - Hazel Street
(37-13-29) #130-04

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

A. Trochiano: My name is Anthony Trochiano with Pietrzak & Phau Engineering representing the applicant.

G. Lake: Go ahead.

A. Trochiano: We are currently pursuing the Health Department for their approvals and therefore we are requesting an extension.

G. Lake: How many have you had?

A. Trochiano: One I believe.

G. Lake: Mr. McGoey, your last comment they were scheduled for the eighteenth. Did they make it and does it have to be re-scheduled. While he's looking that up I will go through the Board.

A. Dulgarian: Nothing.

H. Ross: Nothing further.

R. Carr: Nothing.

W. Capozella: Nothing to add.

C. Najac: Nothing.

T. Hamilton: Nothing.

D. McGoey: Mr. Lake, it was scheduled tonight for an extension of Preliminary Approval. That should have been put under Actions Required by the Planning Board.

G. Lake: Okay.

MOTION for a ONE YEAR EXTENSION to PRELIMINARY APPROVAL made by W. Capozella and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7AYES

4. **WALLKILL STAY INN & SUITES** - SITE PLAN/SPECIAL USE PERMIT -
Crotty Road (60-1-56.2) #92-07

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

L. Powell: My name is Lou Powell with Eustance & Horowitz representing the applicant.

G. Lake: Go ahead. You're here to show us a couple of changes, I take, and you have some marked out for wetlands.

L. Powell: Yes. We hit a little bump in the road.

G. Lake: Basically they're here to bring everybody up to speed and go back to work on it.

L. Powell: Basically to bring the Board up to speed as we had to make changes to the plan and to make sure you're okay before we move forward. When the consultants went out with the Army Corps of Engineers they found that the original markings were incorrect. They found an area here which was connected over to the main wetland that goes around and they also found this area in the back which I have marked in blue. As you can see this area in the front went through the middle of the parking area and also went into a portion of the building and in the back it went across a portion of the back road and parking back here. So, we had to make an attempt to try and salvage this without making it into a major disturbance with the Army Corps of Engineers. What we have done is we have basically shifted the building ninety feet to the north. We eliminated some parking in here. We eliminated the parking on this back road and added the parking over here. Originally we were under a tenth of an acre of disturbance not needing a permit. We are now under a half acre which will require a permit and some mitigation. This orange line was the original subdivision line between lots #2 and #3. We had to do something with this building over here. Luckily, we had enough side yards that all we had to do was to shift this whole building and parking and everything in that direction. So, nothing changed on lot #3 on the conceptual for that lot. This was the original Site Plan and feasibility for lot #3 and as you can see we had area left from here and here but we had to squeeze it down. Lot #2 which was originally 13.97 acres got an acre and a half added to it so now this site is now 15.47 acres and lot #3 which was originally 9.66 acres is now down to 8.16 acres. Originally on lot #2 we had in this front area where we were building we had approximately ten acres of use-able land and we presently have just slightly under ten acres because we've added almost an acre in here and what we lost in wetlands and what we came with land makes it about equal. Lot #3 which originally had 6.22 acres is now down to approximately 4.19 acres. The biggest change is that we eliminated parking here and in the back and we've added parking over here which in the parking numbers are within three or four spots from what we previously had.

G. Lake: Basically you're having the same configuration that the Board has been looking at since the beginning and you've just moved the building to get it out of the wetlands?

L. Powell: Yes.

G. Lake: Now, you mentioned there might be a little mitigation on the back piece?

L. Powell: There would be some mitigation on this piece. There is some area over in here and an area in the back. There are some areas that the consultant is working on the plan. We will have a mitigation plan and will come along with the rest of it. There are several other questions that Mr. McGoey had and I got something from the Highway Department and also something from the Landscape people. We will go through these and make the appropriate revisions.

G. Lake: Okay. Let me go through the Board to see if they have any different comments since you've done this because I think that's basically what you're looking for tonight to make sure the Board is happy and then you can come back to another work session.

L. Powell: Right.

G. Lake: Mr. Dulgarian?

A. Dulgarian: The northerly lot with the small building what lot are you calling that?

L. Powell: Well, that was called lot #3. If you remember there was a parcel on the other side of Crotty.

A. Dulgarian: Lot #3, when it comes time to develop that are you going to find more wetlands on that or have you delineated that?

L. Powell: This blue is the revised lines.

A. Dulgarian: They're the revised?

L. Powell: Right.

A. Dulgarian: Okay.

L. Powell: The Army Corps of Engineers have set the wetlands.

A. Dulgarian: I have nothing further Mr. Lake.

H. Ross: I know they need to go back to another work session but to go back to Mr. McGoey's comment #8. Does this change address the fact that building #2 and building #3 may be encroaching into the Federal Wetlands?

L. Powell: Those buildings will not encroach onto the wetlands.

H. Ross: Mr. McGoey?

D. McGoey: I brought that up because I think that they will have to need a little bit of a buffer. We don't have a grading plan. It's more of a notification to your office and other consultants. You may have a little bit more here than you think.

L. Powell: We originally had a wall back there. We have a little area to work with. The wetland consultant will work on those details.

H. Ross: That's all I have for now.

R. Carr: Outside of that I have no issues.

W. Capozella: Could not hear.

D. McGoey: That would have to be part of their acreage to be included.

W. Capozella: That's all.

C. Najac: Nothing further.

T. Hamilton: The concept I don't have a problem with.

G. Lake: I don't have anything further of what the Board has said. I think the Board has always looked at this as a pretty imaginative project. Call us and get back on another work session and then we can go from there.

L. Powell: Thank you.

MOTION to TABLE for further review made by H. Ross and seconded by T. Hamilton.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

5. **GREENWOOD REALTY SUBDIVISION** - (Cappelluzo) - Silver Lake Scotchtown Road (81-2-1.1 & 1.2) #83-07

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

D. Yanosh: My name is Dan Yanosh representing the applicant and with me is the owner Mr. Cappelluzo.

G. Lake: Go ahead. Explain since the last time you were here where you stand and what has happened and the history a little bit of what happened at the Zoning Board of Appeals.

D. Yanosh: We were here with a seven lot subdivision. It took us quite a few months to get through the Zoning Board of Appeals due to the fact that a lot of the members weren't at the meetings and caused a lack of quorum. We did have the Public Hearing. All the neighbors came out at the Public Hearing and not one person objected to the project. They were all in favor of it and liked the idea that the lots were all the same size. The only question they really had at the meeting was the fact that once we start clearing the land there was a problem with the subdivision on the other side of Patio Road with all the animals and rodents coming out of the woods. So, we will have to address that as we go along. That was their main concern about the project. They had not one question at all. The only thing we did at the Zoning Board of Appeals is we reduced the number of lots from seven down to six. We made the lots one hundred six and one hundred five wide which is wider than the ones that are across the street. We really conform to the zoning in the area. We got our variance back

in January so now we're back before the Planning Board for more review so we can continue.

G. Lake: Mr. Yanosh, is the vision for this to build the same type of homes that are in the neighborhood?

D. Yanosh: Oh sure. That was one of the things the Zoning Board was saying and the lots again are only one hundred six feet wide. We show 45 x 30's on here and that's all that will be able to sell in the neighborhood like that, a bi-level. There was no reason to try for one acre lots for someone to put a big house on. We wanted it to conform.

G. Lake: Let me go through the Board.

A. Dulgarian: We're scheduling a Public Hearing tonight?

G. Lake: Yes, correct.

A. Dulgarian: Nothing.

H. Ross: Nothing.

R. Carr: I guess and it does meet the houses in the front but the one place is on the corner. If you look across the way the house is back off of Silver Lake Scotchtown Road. Here, this house is right out on Silver Lake Scotchtown Road. If there's something you can do to . . .

D. Yanosh: I can slide it over that's no problem, sure.

R. Carr: You know it does fit in the neighborhood and I think that's the main thing. That driveway is very close to the intersection and the house that would be sitting right on the edge of the road. That would be my concern.

W. Capozella: One of my questions is related to Mr. McGoey's comment #3 which states the applicant proposes to redirect a wet weather stream which presently meanders across proposed lot #6 outside of the drainage easement. The twelve foot drainage easement is on the lands of others in the name of Gercich. We would recommend that the owner of the adjoining property now or formerly Gercich be notified of the need to work within the existing twelve foot easement prior to work being commenced.

G. Lake: He will certainly have to address it. He can address it at a work session and then come back.

D. Yanosh: I've already talked to Mr. Lippert about that situation. I will talk to him again with the new plan on it. It is part . . .this should have been built on the adjoining property as part of that subdivision many years ago. It shouldn't have even covered this property in the beginning. What made them do that I have no idea. That was one of Mr. Lippert's comments also. We will discuss that with him. He was worried that it might be a Department of Environmental Conservation problem or something like that. All it is, is just drainage from across. Not much goes through there.

D. McGoey: One of the problems is the closeness to the thirty foot easement and to the houses and the fences that are on the adjoining lot. You may have to pipe that stream past the backyard.

D. Yanosh: It's not our property. I will have to discuss that with Mr. Lippert.

D. McGoey: Well, if you're going to move the stream then you may have to pipe it.

D. Yanosh: I'll see what he says.

G. Lake: Anything else, Mr. Capozella?

W. Capozella: No.

C. Najac: Is that easement under the Town of Wallkill?

D. McGoey: No. We have to determine who is responsible for the maintenance of that easement. We don't know that. Generally those easements are not Town easements. That's an issue that Mr. Yanosh will have to resolve.

C. Najac: Maybe it should be taken over.

D. McGoey: We can do through the stormwater management.

C. Najac: Your comment #9 which states the lower sewer able elevation of each of the proposed dwelling units should be shown as same relates to the elevation of the sewer line for a determination as to whether back flow preventers will be required, and to determine if in fact gravity sewer source can be provided to each dwelling unit.

D. Yanosh: That's no problem.

T. Hamilton: I have no concerns.

D. Yanosh: Mr. Najac, I'm surprised. The Town is looking at putting a sidewalk along Silver Lake Scotchtown Road. It's one of the Highway Department comments. I just talked to Mr. Lippert and there is enough room there so the Town will be going to put the sidewalk in.

G. Lake: Are they going to be putting it on that side?

D. Yanosh: Supposedly because it also has something to do with the Church of Latter Day Saints up the street.

G. Lake: The crazy thing about it. We have sidewalks on the other side down by Stewart's. I also think the Zoning Board of Appeals did the right thing here by keeping it with the neighbor already existing. So, I'm glad to see that it happened. We can schedule you for a Public Hearing on April 1, 2009 and get back to another work session to straighten out the rest of the details. Will that give you enough time?

D. Yanosh: Sure.

MOTION to schedule a PUBLIC HEARING for April 1, 2009 made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

6. MAY - 2 LOT SUBDIVISION - Pond View Drive (78-1-90) #59-08

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

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

G. Lake: Go ahead.

D. Yanosh: I was here a couple of months ago and in the discussions were to go back to the Town Board for the re-opening of the redevelopment area by the road. I discussed it with Mr. Bacon in correspondence and he's agreed to me to the fact that its not a Town Board issue. The Planning Board can issue one more lot on the property because the first lot of the subdivision does have road frontage on a Town road so I think it's a legal problem and he's prepared me. I wanted the Planning Board to be up to speed on that and if everything is okay I will proceed with the rest of Mr. McGoey's comments for the septic design, all the drainage and all the proposed grading.

G. Lake: You got this, how long ago was this done?

D. Yanosh: The subdivision was filed in 1999. June 4, 1999.

G. Lake: It's ten years, right Mr. McGoey?

D. McGoey: Yes.

G. Lake: If this was done less than ten years ago?

D. McGoey: Right.

G. Lake: He will be required to have a Public Hearing?

D. McGoey: Well, it was a major map anyway.

D. Yanosh: It's being made bigger so I will need a Public Hearing also.

T. Hamilton: Mr. Bacon, did you advise him of our subdivision regulations in an open area?

J. Bacon: Well, yes. There's a little bit of disagreement because when the Town Board

approved the open development area they went by the subdivision code where it said no more than four lots and that's what it was. At that time it allowed Pond View Drive to be built. The definition in the subdivision code in an open area is no more than four lots.

R. Carr: How would he seek relief?

J. Bacon: That's an accepted question. What we have to do is go to the Commissioner of Public Works and meet with an engineer and then they pick a third party to make a decision on the subdivision code instead of going to the Zoning Board of Appeals there is a different procedure to deal with this. It's a very strange section of the code.

G. Lake: Even though he's following the new code?

J. Bacon: It's under the old code.

G. Lake: Wait a minute. He would go to Mr. Lippert and who else?

J. Bacon: Let me read it for you because this is the first time its come up. The code says in the event that at any time prior to Final Approval or disapproval of any spot the sub-divider so protesting the right of the Planning Board to any interpretation of the regulations . . .the Board will authorize the Commissioner of Public Works to meet with the engineer of the sub-divider and then those two chosen shall pick a third person and the two engineers and the third person will make a decision which the Board will follow.

G. Lake: You know what, I don't want to say anything but what does the Commissioner of Public Works have to do with a private road.

D. Yanosh: What is the section of the code?

J. Bacon: Section 209-29.

D. Yanosh: I think what I did was when I wrote the letter here the open development is a private road says four lots without frontage on an existing street and since the first lot in that subdivision has frontage on Mount Joy Road I was okay to get one more lot because it says four lots without frontage on that Town road. So, since lot #1 did have frontage I would be allowed to get one more lot.

G. Lake: Does that house exit onto Mount Joy Road?

D. Yanosh: Yes.

G. Lake, Oh, so it does exit onto Mount Joy Road.

D. Yanosh: Yes.

G. Lake: I'm talking about lot #1.

T. Hamilton: Where is the driveway?

D. Yanosh: The driveway goes through . . .

D. McGoey: Do you have the old subdivision map?

D. Yanosh: The driveway goes through the lot that fronts lot #1 in the original subdivision which fronts on Mount Joy Road. That's how I interpreted the code when it said four lots on the private road.

J. Bacon: How would you drive across the building? Do any of these have frontage?

D. Yanosh: Had a conversation with Mr. Bacon.

G. Lake: Let's figure out a course of action of how we're going to handle this fifth lot. I don't know. First off, does anybody have a real problem with the fifth lot there and I really don't. I've been out there a couple of times. I don't know if anybody else does unless you want to keep it at four.

T. Hamilton: That's not up to us to straighten out. Before we think about saying yes let's find out what we can do and what we can't do.

G. Lake: There's no sense of fighting the Commissioner of Public Works or anybody else if you're going to go through all this and they say no also. That's the only thing I'm trying to figure out and to call in a third party I would say we have Mr. Bacon send Mr. Lippert a letter stating that we want to be the third party. That's not to say that can't happen.

D. McGoey: It may not have to go through Mr. Lippert if you agree what he is saying. The law says he can have four lots on a private road. He's only going to have four lots on a private road. The fifth lot will have frontage.

T. Hamilton: I don't see any access.

D. McGoey: He has legal frontage.

T. Hamilton: Then he's going to change his access from the other road.

D. McGoey: I don't know if it says access. I don't care one way or the other.

D. Yanosh: If you research an open development area the definition of the subdivision open development area that's what it says, on a private road. The Northrup's if they wanted to in the beginning, I worked on the subdivision back then for them and they wanted the view. So, I believe lot #1 does have frontage and that's the only reason I'm here.

J. Bacon: I think if the Board wanted to interpret it that way, I think they could because there is a lot with existing frontage and they access that frontage.

T. Hamilton: The original approval four out of three.

D. Yanosh: No. The Town Board resolution just says open development road. It's doesn't say four, five or three lots.

G. Lake: Mr. Bacon, are you telling this Board, you know, since you have the legal frontage on Mount Joy Road. I think we're just looking for a yes or no.

J. Bacon: Yes.

T. Hamilton: I think what he is saying now that being that one lot has frontage we don't have to count that are part of the overall.

D. McGoey: Right.

G. Lake: And, that's why I'm asking because we have three legal lots there now and is he able to add one more, that's what I'm asking.

J. Bacon: I think the Board can interpret it that way.

R. Carr: I have no problem really with the subdivision itself since we do have the ability to interpret it that way. I'm all for interpreting that this is only to allow a lot on an open area road.

J. Bacon: I mean it's a little bit ambiguous but we usually try to find it in favor of the property owner who are taxpayers and own it and if it meets the other parts of the subdivision code then . . .

C. Najac: How much frontage is on Mount Joy Road?

D. Yanosh: It's approximately two hundred and fifty feet.

J. Bacon: Mr. Yanosh, there would be no further subdivision then?

D. Yanosh: Yes. That could be a situation there.

G. Lake: Let me go through the Board to see if there are any other comments and then we still have to decide if it needs a Public Hearing.

A. Dulgarian: I agree with Mr. Bacon.

H. Ross: Yes, as long as we have a clear path to make an exception and that it wouldn't lead to a general exception because of the frontage on a Town road. I don't have a problem but I did wanted to make sure we show the well distance and the proposed septic to the existing well on lot #1. I also have a little concern about what we do about the existing septic currently on lot #1 and the property owner of lot #2. I know there is time to resolve that. I just want to make sure.

D. Yanosh: That septic that's existing now is to be used for lot #2. That's what we plan on doing. We will be doing a new one for lot #1. We will put all the setbacks on the plan.

R. Carr: Nothing else.

W. Capozella: Nothing else.

C. Najac: I know you're creating another lot but I do have a question in general. Do we have other situations where having frontage on one of the lots.

D. McGoey: I would imagine that may be a possibility.

D. Yanosh: I don't know of any other private roads other than the two I did a few years ago in Circleville. All I know is that the Town Board approved this. If you want me to go through the zoning and see what they say who wrote the code but it does say a subdivision containing not more than four lots without frontage on an existing street. I meet the width of

the lot anyway.

H. Ross: Mr. Lake, I think maybe we should suggest to the Town Board that maybe they change . . .

D. Yanosh: The person who owns lot #1 has road frontage. He can put his own driveway in. He has access to the Public road.

G. Lake: Hold up a minute. Let me get through the rest of the Board. Mr. Najac, do you have anything else?

C. Najac: No.

T. Hamilton: I think what we might look at in the future is whenever a project comes in of this type we make them for the lot with frontage make it a part of the overall open development and then only the four behind it so that we don't end up with this problem.

G. Lake: This lot definitely has road frontage.

T. Hamilton: If he uses the main road and doesn't use the open development road.

G. Lake: If he has the road frontage he will not need to use the open area road. Now, the next question. A Public Hearing, does it need one?

D. Yanosh: It was a major subdivision before.

D. McGoey: You have a lot of neighbors. You have people sharing the road.

D. Yanosh: I have no problem.

J. Bacon: I would say go for the Public Hearing.

MOTION to schedule a PUBLIC HEARING for May 6, 2009 made by H. Ross and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

7. **BURGER KING** - SITE PLAN - 281 Route 211 East (50-1-27) #41-08

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

G. Rouse: My name is Gary Rouse with GBC Designs representing the applicant. With me is Jim Meinecke with Carrols Corporation and Steve Esposito from Esposito & Sons, Inc.

G. Lake: Go ahead. Tell us what you've done since the last time you were here.

G. Rouse: We've done quite a bit. We have taken more land from Dodge Drive and spread everything out from east to west. The reason is we now keep the required ten foot green space setback. We now have two twelve foot ingress lanes and one is strictly to take cars into the back. The other one is for the drive-through and parking. We have the buildings and then the driveway, drive-through lanes and a by-pass lane. We actually have fifteen feet of green space until we get to the (not clear) line. We have eliminated the parking spaces in the front of the building which the Planning Board had a problem with the last time we were here. We picked up four parking spaces in the back that we're going to have for banking of the spaces if needed. I guess that's basically it. We've improved the access quite a bit. We've made the flow move better. Including the four banked spaces we have the required forty eight spaces. We meet all the green space requirements and will need no variances.

G. Lake: Okay. You need no variances?

G. Rouse: We need no variances. We had a very good work session a couple of weeks ago and have comments from Mr. McGoey, about fifteen comments. Probably there are about six

of them that probably should be discussed before the Board. The other nine comments are Site Plan details.

G. Lake: Do you agree with that?

D. McGoey: Yes.

G. Rouse: The first comment has to do with Dodge Drive, the status of Dodge Drive. Mr. Esposito has been working really closely with the developer and I will let him bring you up to speed on that.

S. Esposito: The last time we were here we reported that the Town Board (not clear) a quick claim deed for the transfer of the ownership of Dodge Drive. We were at a work session about two weeks ago. Now there are only two people involved in the transfer. (Not clear).
G. Rouse: The second comment has to do with easements and agreements. We have been agreed to in principal between Carrols Corporation and AOK Investments. The final details have to be worked out. Once the final plans are approved those will be worked out and put on the plans. Comments #3, #4, and #5 and site details. Comment #6 has to do with whether the Fire Department wants a fire lane, parking/no standing, etc. I don't believe the Fire Department has given us an answer to that. If they want it, we will do it. Comment #7 the need for a consolidation map which includes Dodge Drive. Right now we have a lot consolidation map which does not include Dodge Drive. We are taking part of Dodge Drive as part of the Site Plan and that's totally up to the Planning Board. If they want that included once it's officially it can be included. That's a discussion item that's totally up to the Planning Board. Comment #8 had to do with whether Mr. Behan should review the landscape plans. Again, that's up to you folks. Comments #9, #10 and #11 are site details. Comment #12 is the need to discuss the need for a drain in the area of the dumpster. Typically we do not put drains in the dumpster area on the Burger Kings that we do. However, if the Planning Board would like that it can certainly be added to our plan. I will leave that up to the Planning Board. Comments #13, #14, and #15 are site plan details. Then the last item is the action required by the Planning Board Attorney to advise whether a Public Hearing is required. I will leave that up to you.

G. Lake: Let me go through the Board to see what comments they have and then I will go from there.

A. Dulgarian: I have a couple of things. Number one, in your sign area "C" is your bordering

point?

G. Rouse: Yes, that's correct.

A. Dulgarian: So, that's going to be the first place they stop. There's no reason for them to stop in the back of the building, on the northerly side of the building?

G. Rouse: Yes, that's correct. That's the first place they can order.

A. Dulgarian: There's nothing before "C"? No reason for them to stop?

G. Rouse: Correct.

A. Dulgarian: Mr. Lake, my main issue with this and I like it instead of the McDonald site that actually is . . . What is about the McDonald site is in the back they order and go over to the side. Unfortunately these folks are able to pick it up and if not. The other problem I would have is where it comes off the highway off of Route 211 you have people backing out into the road you're going in. Now, the first person who does that is going to stack them back out into the road. So, I'm not designing this project but to me you're almost going to lose those first two parking spots. I don't like this. I don't think it's a safe Site Plan. I don't know what the alternative is but I just know that with experience around the Town and being on projects that I think might have an impact this is one of the things that we have. I'm still uncomfortable with that. That's the only comment I have at this point.

G. Rouse: If I could address your comment, first of all we have a ten car stack in the drive through which is a huge number.

A. Dulgarian: I'm not talking about the stacking. That one I'm kind of satisfied with and your location on the other side. You're already four or five cars ahead of what McDonald's has and they have problems.

G. Rouse: The second thing is we actually have two twelve foot lanes in there. The required lane width with forty five degree parking in the Town of Wallkill is twelve feet. We have two twelve foot lanes.

A. Dulgarian: Why do you have two? Why don't you just use the one for the easterly side which will give you more room? Why would you have two? If the guy's going through the drive-through he's going to hug the building.

G. Rouse: That just gives people plenty of room. They can . . .

A. Dulgarian: If you got rid of that one and just used the one all the way you wouldn't have to worry about plenty of room.

G. Rouse: I guess I'm not understanding.

A. Dulgarian: You show two lanes coming in.

G. Rouse: Correct.

A. Dulgarian: Both with an arrow going straight.

G. Rouse: Correct.

A. Dulgarian: One of them, the one on the left is the one that goes to the drive-through. That's the one I'm concerned about people backing into all these cars. So, you're suggesting you pull in and swerve to the right around them into the other proposed lane. I'm saying why don't you just use the lane to the right and leave that as just extra space for the people to back up.

G. Rouse: That's fine, too. If that's twenty four feet . . .

A. Dulgarian: I mean I'm not designing it but I'm just telling you what problems I have with it.

G. Rouse: We have twenty four feet of pavement here which is enough room for a car to safely back out which is twelve feet and hopefully another twelve feet for a car to get around.

A. Dulgarian: Right. The lane you're guiding them through is the one that is closest to the parking and closest to the road.

G. Rouse: So, are you suggesting we take out . . .

A. Dulgarian: I'm not suggesting anything. I'm just telling you what my problem is. Again, I can't design your project for you. I'm just thinking it's a little tight and from personal experience on something that this Board has approved that we don't like or I don't like anyway I can see this as being a problem. I'm not knocking your project. It's going to be nice and all that. It's just that it's up to us to make sure it is conducive to the Town and is safe and flows well. Again, I hope you guys build this to make a million bucks I just want to

see it as nice as possible. To me, this is my issue and again, I can't design your project. I know I don't have a comfort level right there. That's all I really have.

G. Rouse: We feel comfortable with the twenty four feet of pavement. That's the width for a city street, two ways of a city street. We feel comfortable and we feel we've addressed the concerns of the Planning Board at the last meeting. That was the reason we went to the two full sized plans that we have.

A. Dulgarian: If you're comfortable with it that's your business. I'm telling you if I had to vote today it would be no.

G. Rouse: What would it take me to make you happy?

G. Lake: Let me get through the Board.

G. Rouse: Okay.

G. Lake: Mr. Dulgarian, are you done?

A. Dulgarian: Yes.

H. Ross: I'm largely in agreement with Mr. Dulgarian. I'm not that crazy about this yet. I think Mr. Dulgarian would be happy if you extended the buffer area and singled up your entrance road off the highway and just left it vague as to directing traffic to the right hand lane even though it would be too late for them to get in there, they will in the one and will have to cross into the other lane to get those parking spaces and then to continue on around the drive-through on the far side.

G. Rouse: Would you explain to me Mr. Ross, why?

H. Ross: In that have the two lanes there it is dangerous.

G. Rouse: Okay. The pavement width is okay?

H. Ross: The pavement width is fine. You would have people using the right hand lane by default as opposed to using both and extending the buffer at the entrance you would solve that problem.

G. Rouse: So, basically taking out the center paint stripe we have?

H. Ross: I'm not getting into designing this. I'm just saying if you stay to the right.

G. Rouse: Okay.

R. Carr: You wanted the drive-through where they can go through in the front even though your existing one doesn't?

G. Rouse: Yes.

R. Carr: And, again, I don't know why people would be coming from this side over to this side. On the westerly curb cut if people are entering there from Route 211 it seems crazy. You have someone who might be coming out getting food and somebody coming in. To me that absolutely is iffy. I also have to agree with what Mr. Ross was saying that if we didn't have people backing out it could be channeled. I think the biggest problem is that we have a lot of places in the Town with people backing two or three feet and there's a lot of traffic. It can get really tense. It is a tough lot to work in but I just can't see. To me you could landscape that front. The project is a good project. It would be an improvement to the existing Burger King that's there but I think just that section could be a whole lot nicer.

C. Najac: These guys would be locked in, is that what you're saying?

R. Carr: Yes. I just think that would be . . . There's a ton of pavement and I don't know why. I don't know what the answer is for there.

A. Dulgarian: But I think it's going to queue because of the drive-through but it will if people will be backing up.

G. Rouse: To address your comment on the path through in the front in case somebody's order isn't done or something like that you can tell him you will pull ahead and they'll come around and bring your order out rather than having you just sit there and wait and then the flow will continue to flow better.

R. Carr: I would think you would have them pull into the front.

G. Rouse: Well . . .

R. Carr: I don't know. You're having cars coming in from every direction.

G. Lake: We'll address that.

W. Capozella: Yes, I would have to agree. I understand what you're trying to do but I can see it as being a problem in the front.

G. Rouse: What do you mean by the front section?

G. Lake: Listen.

W. Capozella: The waiting section. You're going to add to the traffic.

C. Najac: Yes. I also have a concern with the two arrows that don't make any sense and all the way in the back you have an arrow pointing, is that two-way or one way?

G. Rouse: It's one-way. You cannot enter coming from the north and not enter. You can only go.

C. Najac: Is that connected?

G. Rouse: Correct. Exit only. Do not enter, exit only. Cars can only go north out of that.

C. Najac: The concern seems to be that people will walk across the traffic or back into it.

G. Lake: Anything else?

C. Najac: What happens if you get the little old lady who pulls in and then when it is time to leave she then realizes she can't turn her head far enough around to see what's behind her. There are lots of problems. That is a concern and I don't know how to correct it.

T. Hamilton: That drive-through should be moving. You should not have to get out of the line. If you're going to start holding up people that's not ready something is being done wrong. The other business is always backed out onto Route 211. It's going to happen here and you're going to block all those cars that are parked up against that building and they're not going to be able to get out of those parking spaces. I don't think it's going to work this way. The other item that I have a big problem with is there's no reason that the Burger King sign is twelve feet in diameter and thirty feet off the ground. Why? You don't need one that big to see where the Burger King is. That's all I have.

G. Lake: Okay. You've heard from the Board. I agree with some of the stuff that the guys

are really saying. Let's go to your front drive around but I kind of agree with the drive around in front we could do a much better job of landscaping. I guess that's a concrete island there that would separate the traffic.

G. Rouse: It's just paint.

G. Lake: Just paint. You know I don't even see why you would want somebody to come in that westerly entrance/exit like you have it now. I don't know why that wouldn't just be an exit. It's not like you have a medium to cross there. That's only painted stripes out in front of your store. I don't see and again I'm not a traffic engineer but I don't see the real need of that to have two-way traffic coming in to one another. I think you can do a better job of landscaping and I think for the people who have to pull up if you did away with that crossover you could have a car or two up there and then hopefully they're on their way and there would be plenty of room for them to move about. That's my opinion on that. As far as what Mr. Dulgarian said around the side I think you've heard him refer to the other place. I can't believe somebody hasn't gotten killed there yet. Not your place, but the one down the road. You come off of Route 17 down that ramp and some days there are stopped cars there. That I think is everybody's fear here. As far as backing out goes, I think Mr. Ross hit it right a little bit with maybe bumping the landscape island out a little bit and when they come in nail them down to the right and then have that strictly as a way for as you say people back out. I think that's something you can work on and solve it. I think we've come a long way with it and I think the Board is just trying to give you the best criticism on it that we see happening throughout the Town here. The items that were mentioned tonight were very true items things we see that happen all the time. I don't think it's going to change a lot. This one entrance/exit that I don't understand. I think you're only going in one way on that side why not have them come out one way on the other side. I just think it's dangerous. We hope you do well with it. Myself, I agree with Mr. Carr. I think we could do a much better job of landscaping and at the same time solve a place for you to stack a couple of cars for the people that have an order that's not ready right away and have sufficient room to put them up them and then get them out without causing a hazard.

J. Meinecke: I have to say something with this crossover. This is vital to our project. What happens here is cars come around and if somebody has a problem they need to back around to get the parking because the parking is only on this side of the lot. What happens is they end up going out in the street and try to figure out how to come back into this project. So, I mean this is vital. This is in all of our new projects.

G. Lake: I guess what I'm trying to say you're talking about somebody having a problem ordering from the take out.

J. Meinecke: Not only that but if somebody comes in here and they come around and realize there's no parking over here then they've got to go out and leave the whole site and figure out how to come back into the site to get into the parking.

R. Carr: I just can't imagine people are going to over to this driveway to get to the parking. You know back here they're going to . . .

J. Meinecke: But they do. Let's say this parking is full and the people will drive around the building looking for parking on the other side.

A. Dulgarian: Well, you have seventeen different signs on the project. Having a sign stating parking on this side of the building only would maybe be a whole lot safer than having that mess in the front.

J. Meinecke: I don't see that as unsafe. This is something that we've put in all of over projects. This entranceway I agree with you. That change is not a problem and it make sense. When it comes here to coming back around the building that's something if you go and you look at any fast food unit that's fairly new that's in all of our projects where that access flow around the lot is vital.

G. Lake: Well, you've heard the comments from the Board. I think it's something that we would like to see something somehow done with a couple of these things.

G. Rouse: Can I ask for more clarification? On the two twelve foot lanes I'm not exactly sure what you guy's are looking for there when you first come in.

G. Lake: I think what and I think Mr. Carr or Mr. Dulgarian mentioned it the safety factor of just backing out into two cars coming in at one time and just shooting to the back and what Mr. Ross kind of mentioned was and it makes sense down in this front yard area maybe you can push that out a little bit so when they come in they will funnel to the right. I'm not saying you're going to do away with that pavement because I think you need that in there for emergency services if nothing else. At least everybody would go to the right once they're onto your property and funnel them to the parking lot or the drive-through and then that area directly behind these cars would basically be open for them to back out in a safely manner knowing everybody is way over to the right where you don't have any parking.

G. Rouse: Okay, so . . .

G. Lake: Listen. I'm not a traffic guy so I'm not telling you. I'm just saying it may be an idea that was brought up.

T. Hamilton: On sheet #6 of #14 . . .

J. Meinecke: Yes.

T. Hamilton: Looking towards your building, this square marked out over to the right of your parking lot, what is that?

J. Meinecke: That's where the existing Burger King is now.

T. Hamilton: What's happening with that?

J. Meinecke: That would move over to this site.

T. Hamilton: What about the building?

J. Meinecke: I don't know what they will do with that. It's owned by a landlord.

T. Hamilton: It's owned by somebody else?

J. Meinecke: Yes.

T. Hamilton: It says Carrol Development. Is that the same company?

J. Meinecke: That's because we have the site now. We're leasing that site.

D. McGoey: You should probably show the both property owners.

G. Lake: Mr. Bacon, do we need to schedule a Public Hearing on this?

J. Bacon: Yes because it falls under the new regulations.

G. Lake: Okay. We're going to schedule you for a Public Hearing. I think there is plenty of time for you to get back for another work session and take a second look how to incorporate the comments.

MOTION to schedule a PUBLIC HEARING for April 1, 2009 made by W. Capozella and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES