

TOWN OF WALLKILL PLANNING BOARD

MEETING

MARCH 4, 2009

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

MEMBERS ABSENT: T. Hamilton

OTHERS PRESENT: J. Bacon, D. McGoey

1. PUBLIC HEARING 7:30 P.M. - **ORANGE & ROCKLAND** - SITE PLAN/SPECIAL USE PERMIT - 325 Shawangunk Road (3-1-44) #25-08

G. Lake: Public Hearing started at 7:41 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 99 Tower Drive, Building "A", Middletown, New York 10941 in said Town on the 4th day of March, 2009 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Orange & Rockland Utilities, One Blue Hill Plaza, Pearl River, New York 10965 for approval of a 4.0 acre lot (Parcel 3-1-44) fronting a portion of Shawangunk Road (nearest cross street being New York State Route 17 for general utility purposes under Sections 249-26 and 249-40 of the Zoning Law of the Town of Wallkill with respect to the Site Plan approval, and pursuant to Section 276 of the Town Law of the State of New York for a two-lot subdivision. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

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

N. Fishberg: My name is Neal Fishberg representing the applicant and we have folks here from Orange & Rockland. My name is John Coffey with Section 9.

G. Lake: Do you have your mailings?

N. Fishberg: Yes.

G. Lake: Thank you. Go ahead. Give us a brief description basically.

N. Fishberg: It's basically a two-lot subdivision. Orange & Rockland is seeking to put in a

sub-station. We've gone over the engineering plans with your engineer. The details of it I'm going to turn over to Mr. Coffey.

J. Coffey: The development on the four acres for the subdivision is an electrical sub-station. That sub-station is unit is out of the four acres to develop the property is about 1.3 acres. The existing parcel has a transmission right-of-way which will assist in providing a source for the electrical sub-station. The station transmission line itself is one hundred fifty five feet by one hundred sixty two feet. It's a typical Orange & Rockland station design and has two power transformers to feed local customers in the vicinity. The zoning that we're in is H-C, a Highway Commercial Zone. Again the transmission facilities that are on the parcel is one hundred twenty five feet away. We have made a "JD" application to the Army Corp of Engineers for the existing wetlands that are on the parcel. We are not developing any of the sub-station in that parcel. We're waiting for that notification to come back. We have submitted a SWIFT plan which has been accepted by Mr. McGoey. We have also submitted an Environmental Assessment Form as well. For us as far as the station itself again, it's basically a square that's going to have electrical apparatus to allow us to bring the transmission source into the station and distribute it for neighboring communities and serve the power needs of the Fair Oaks vicinity. We have testified in the past that we have low noise transformers in the station and we're prepared to submit a typical report on the fact that the noise in the station is basically relegated to the station itself. We have provided for a rendering and we have the view from Route 17 as well.

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

H. Ross: After.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: 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 7:43 P.M. made by C. Najac and seconded by H. Ross.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

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

D. McGoey: The only really outstanding issue I have is the details of the improvements to Shawangunk Road and the "T" turn around have to be shown on the plan.

J. Coffey: We have brought a plan with that "T" turn around modification and we do have copies for yourself and the Board.

D. McGoey: Okay. You can leave them with me and I will check it at a later date. That, as well as the stormwater management which is the process that takes a little while. Have that done before the Chairman signs the maps.

G. Lake: And, stormwater? Are you satisfied?

D. McGoey: Yes.

G. Lake: The only other thing that I'm going to ask you about real quick is in the Environmental Assessment Form about the turtles and the bats, how are you going to address that? Mr. Bacon?

J. Bacon: Well, the Environmental Assessment Form did state that they did check with the Natural Heritage Program but there was a case that was decided on December 31st that talked about an on-site survey being required now and that you have to go a little bit beyond the letter from the State. That's something that we thought could be done as a condition to before the maps are signed.

N. Fishberg: An on-site survey to tell you how many bats there area?

J. Bacon: Well, your Environmental Assessment Form said the initial ecological site review showed potential habitat for the bog turtle and Indiana bats, that's your writing.

G. Lake: Right, so you just have to follow up on that statement. And, Mr. Bacon is telling us we can do this subject to you providing us that information. Let me go back to the Board.

H. Ross: I don't have anything additional except for the ecological review and it should be checked.

R. Carr: Yes. It's low impact. The only thing is Mr. McGoey, I guess you will take care of whatever the improvements are to the road.

D. McGoey: Yes. I will.

R. Carr: I have no problem with it.

W. Capozella: Back to the report about the numbers on the noise levels. You don't have a report for us.

J. Coffey: I do have a copy for the Board for the record. It's not a report for the site as there was not one specifically requested for this parcel but we have a very likely kind of substation that we recently had in an earlier report. Those findings were well below, in this case the one in Rockland County were very flexible to this site.

W. Capozella: We have our own set of codes regarding that if you could also look at that as well. Nothing else.

C. Najac: We have looked at this many times and as long as we're okay with Mr. Bacon's information about the ecological review.

G. Lake: Anything else, Mr. Najac?

C. Najac: No.

G. Lake: Yes, we've looked at this a few times. I don't have anything further to add.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and this Board's comments and satisfying the question about the noise levels

made by W. Capozella and seconded by C. Najac.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

MOTION for a TWO-LOT SUBDIVISION subject to all of Mr. McGoey's comments and this Board's comments made by H. Ross and seconded by R. Carr.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

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

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

2. PUBLIC HEARING 7:35 P.M. - **110 JEMS LLC** (Pharmacy) - SITE PLAN REVISION - 110 Crystal Run Road (60-1-64) #03-09

G. Lake: Public Hearing started at 7:30 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 99 Tower Drive, Building "A", Middletown, New York 10941 in said Town on the 4th day of March, 2009 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of 110 Jems LLC, 147-39 175th Street, Jamaica, New York 11434, for approval of a proposed Retail Pharmacy, Site Plan and Special Use Permit for 110 Crystal Run Road and Sullivan Lane, under Section 249-26.2 C7 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.

C. DeHaan: My name is Chris DeHann, Architect, for the applicant.

G. Lake: Before we go to the Public just bring us back up with a brief description of what you're doing and then I will go to the Public and then the Board.

C. DeHaan: My client is taking a portion of an existing building at 110 Crystal Run Road approximately thirteen hundred fifty square feet for a professional office space and taking that and re-using it as a retail pharmacy space.

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

H. Ross: After.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: 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 7:50 P.M. made by R. Carr and seconded by H. Ross.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

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

C. DeHaan: Yes I do.

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

C. DeHaan: Sure. Comment #1 was stated that a thirteen hundred fifty square foot pharmacy was going in an office previously occupied by a professional engineer. Item #2. The applicant is proposing shared parking between 110 Crystal Run Road and 100 Crystal Run Road. Both properties are owned by the same property owner, however, we recommend that a fifty year lease agreement be entered into in the event the properties are sold separately. This is in accordance with Section 249-12 , Paragraph C4. Note No. 6 should refer to the number of years of the agreement. We've already provided that on the drawings. Item #3. The applicant will be demonstrating to the Planning Board that the present landscaping is in conformance with Section 249-100. We recommended that a letter be provided and photographs to verify same. We're certainly willing to provide a letter stating the clients will follow the code and we've also put together a handout to show you this evening that shows the current vegetation and site photographs around. If I may I would like to distribute them.

That's based on a field visit out there and also the pre-existing landscaped plans that were prepared for the site for verification on what was on those drawings and what currently exists. In addition there are different views that correlate to the attached photographs. Item #4. We recommended that the evergreen inserts be detailed on the enclosed fence enclosure around the dumpster. That isn't a problem.

G. Lake: The only thing I have is and to put in the record from Herbert Albert Corporation LLC about your traffic since it's a shared intersection and I don't know if you received a copy of this.

C. DeHaan: No, I have not.

G. Lake: We will give you this one and then we will put this in the file. I don't think there is a significant and I hope the rest of the Board feels this way a significant increase to demand that type of action. I will now go through the Board.

H. Ross: Nothing.

R. Carr: I don't think this will have an impact and there are medical offices there. I have no problem.

W. Capozella: I don't have anything.

C. Najac: I have no problem.

G. Lake: I don't have anything on this.

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

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

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

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

3. PUBLIC HEARING 7:40 P.M. - **AGAPE MISSIONARY LOVE CHURCH** - SITE PLAN - O'Haire Road (46-1-76.1) #01-09

G. Lake: Public Hearing started at 7:30 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 99 Tower Drive, Building "A", Middletown, New York 10941 in said Town on the 4th day of March, 2009 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Agape Love Outreach Mission Ministries, for approval of a Church, located at 75 O'Haire Road off Route 211 East (Parcel 46-1-76.1) under Section 249-38C 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: Do you have the mailings?

J. Pryce: Yes I do.

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

J. Pryce: My name is Jessica Pryce.

G. Lake: Excuse me. You can come up after the Public Hearing. Let me get the meeting started please. Let's not get out of order. It's very important that we get this right. I'm sorry. Your name for the record, please.

J. Pryce: My name is Jessica Pryce on behalf of the applicant. David Higgins with Lanc & Tully Engineering.

G. Lake: Okay. Go ahead and give us a brief description exactly what you want to do.

D. Higgins: Basically the application is for a Site Plan to utilize an existing building located on O'Haire Road on property of 2.7 acres. It used to be a window replacement business and is not vacant. The applicant is seeking to utilize the building for a church. It would be a seventy two seat congregation and essentially the only improvements that would be proposed to the site itself is the parking requirements required based on the seventy two seats. Eighteen spaces are required and we're proposing twenty spaces.

G. Lake: I just have a couple of questions and hopefully they will clear some things up.

J. Pryce: Okay.

G. Lake: The days that you plan on using it?

J. Pryce: Wednesday evening and Sunday morning.

G. Lake: So, we're looking at Sunday morning and evening?

J. Pryce: Occasionally.

G. Lake: Okay, and Wednesdays?

J. Pryce: Wednesday evenings.

G. Lake: Are you going to have Sunday School?

J. Pryce: That would be Sunday morning.

G. Lake: Are you going to have anybody living on the premises?

J. Pryce: No.

G. Lake: Are you going to have any, and basically this is only a yes or no answer at this point. Are you going to have any kind of programs during the week of any kind outside of your normal worship?

J. Pryce: No.

G. Lake: No clinics and strictly for church use as I think of a church use would be?

J. Pryce: Strictly for church use.

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

H. Ross: After.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: After.

G. Lake: Is there anyone from the Public who wishes to comment on this application? I will have MaryLynn call the names of the people who would like to speak. Please come up and give your comments and we will try to answer them at the end of all the comments.

C. Elmes: I will defer until some of the other people have.

G. Lake: Mr. Elmes are you going to come up eventually or not?

C. Elmes: Yes.

G. Lake: Why don't you come up now?

C. Elmes: I would rather wait.

B. Lazier: I've been a resident of O'Haire Road close to twenty years and my main concern is the, she said for seventy two seats. What is the occupancy for that building? And then the

fire codes and stuff for that building. Mechanicstown cannot come directly to that building. They have to go around Route 211 because of the low trestle bridge.

G. Lake: Okay. Than you.

D. Coulter: Bare with me while I stumble through. I'm not a Public speaker. I've lived in the Red Town area for fifty three years of my life. I've been a member of the Red Town Residents Association for twenty three years. We're here to voice our concerns about the mission that wants to come in to where the replacement window business was. The residents are here tonight that signed up the street the various concerns to the Board. I just want to clarify why Red Town gets involved with things and you've been there with us. The last three projects that were slated for our area we dubbed them the ludicrous (not clear). We had a trailer junk yard on 46-1-76.4, a one hundred fifty foot cell phone tower on 46-1-76.1 which is now the Lawnmaster on the church property and the grand daddy of them all the animal crematory, 46-1-76. We realize we are picky people but we are more like if it will fit in our backyard bring it in. The junk yard was replaced by a small Christmas tree farm and a produce person that had plants and harvested. The cell phone tower was moved to the rest area on I-84 a place that we recognized it should have went in the first place and has come out there. Also the cell phone tower was replaced by a wonderful business we had in our area, Val Bruni's Insulation. The greatest neighbor we ever had. And the grand daddy was replaced by We Do Windows which was a credit to the community. It was the picture perfect operation. We're sorry the man is going out of business. I'm here to speak about the topic on traffic safety. My first question is was a traffic study done and what were the results?

G. Lake: Go ahead.

D. Coulter: A traffic study was done?

G. Lake: I didn't say that.

D. Coulter: Okay. Ferrara Drive is a very narrow road. You can barely get two cars on it. It comes into a curve to the left to a hill to another curve gradually to the right with absolutely no visibility on the hill and in winters there is a lot of sand on the road making it dangerous for steering. At the stop sign on Ferrara Drive two people almost got "t-boned". There are small children on the road, senior citizens in the area. On the west portion of Ferrara Drive there is a deep pitch with no guardrail. There are two signs that says no through traffic. I'm a little confused by that because last summer my wife counted fifty eight cars between 11:00 and 9:00 P.M. using Ferrara Drive as a short cut. County Route 53, O'Haire Road as you come off of Route 211 it's a right on turn to the right and the only place it straightens out is at

the Ferrara Road stop sign to the We Do Windows driveway and then it goes into a very sharp “S” curve to go under the railroad trestle. Coming eastbound on that road if somebody was pulling out of the church it would be pretty disastrous with somebody coming out of that turn and meeting somebody pulling out from the church. The speed limit there is fifty five miles per hour and believe me fifty five is nothing to what they go through on that road. Sixty to sixty five is a good average out there. Our idea to keep our residents safe and the people who go to the church safe is to make Ferrara and O’Haire roads a three-way stop sign and to reduce the speed limit on Ferrara Drive to thirty miles per hour and O’Haire Road to either thirty five miles per hour or forty five miles per hour.

G. Lake: Thank you.

W. Miele: I’ve been a resident to the area for about three years now. I want to know is the parking going to be up to code? It’s a quiet neighborhood and not much through traffic. A few people trying to cut through to Stony Ford Road. Parking, the code now states one spot per four seats or one space for every forty square feet. Is that going to be brought up to code, the drainage issues, curbs, driveways and stuff. It’s a concern. I live on that street.

M. Dammeyer: My name is Mildred Dammeyer. My husband and I have lived on Ferrara Drive forty eight years. We have been members of the Red Town Association also. The mission should describe in detail exactly what they plan on doing on the site. Is it going to be a church for a place of worship or is it going to be a mission outreach facility? Why I ask that is the notice we got in the mail said Agape Love Outreach Missionaries. Do they expect to be coming back in the future for additional or amended uses and if so what will those uses be? If given permission now for a use at the site will the mission be willing to commit that they will not return in the future for additional or expanded uses of the site such as alcohol or drug rehabilitation, housing the homeless, group home, youth camp and so forth? Are they going to want additional buildings on the site and for what uses? I noticed tonight when we came in the title is Agape Missionary Love Church. On January 5, 2009 in the Times Herald Record it was Agape Love Mission Church. On the registered letter it was Agape Love Outreach Missionaries. What is the real name of the church? Thank you.

G. Lake: We will get that for you.

R. Dickerson: I have lived at 38 Ferrara Drive off of Route 211 East and O’Haire Road for twenty two years. Since then I have attended meetings for several proposed projects. Now I’m here for the Agape Love Mission Ministries and/or church. I, like my fellow residents, have concerns such as health. The septic system on the proposed site was approved for four people. It is not adequate for seventy two people. Safety. Due to the increased traffic we

have no signage or one that states we have children at play. Crime. The property Agape Love Mission is the name. Agape Missions usually reaches out to propagate religion, shelter the homeless, feed the hungry and attempt to convert (not clear). The church is a house consecrated for the worshiping of God and promoting Christians. So, what will the group be reaching out to at this present time and in the future? Will additional buildings be placed on the site? Also, during this economic crisis we're in the tax base by giving us your business district while allowing the tax exempt enterprise to come in. Based on these fore-mentioned concerns I'm against this project going forward.

G. Lake: Thank you.

K. Vanderley: I would like to withdraw at this time.

G. Lake: Thank you.

D. Catelano: I reside at (not clear) and I didn't receive notification of this.

G. Lake: You might just be outside the radius.

D. Catelano: Did that change?

G. Lake: I think it's three hundred feet. Our attorney will look it up.

D. Catelano: Okay because when the crematorium was going through I received a notice.

G. Lake: It actually depends on the zone. We will have our attorney look that up and we will get the answer for you.

D. Catelano: Okay.

C. Elmes: My name is Chuck Elmes and I live at 380 Bart Bull Road. I did receive a notice for this. I guess I'm within three hundred feet.

G. Lake: No matter what it is. It could be five hundred feet.

C. Elmes: I deferred until the end because the prior people knew what they were going to speak about. Basically my concerns are that it is going to be used as a church. What they propose or I heard them say is, I don't really have a problem with as long as you address the

parking and the traffic. I do have concerns based on some of the experiences I've had about anything beyond that as far as if there will be any re-hab, etc. A church in my books is fine. I have no problem with that.

G. Lake: Thank you.

J. Bacon: The notification was for people within three hundred feet.

G. Lake: Did you hear that madam? You might be just out of that three hundred feet where the church would have to send and that's probably why you didn't receive it.

J. Ellison: My name is Joseph Ellison. I've only been here about a year. From what I heard about a church would be fine for my family and very convenient but I also heard that it was going to be used as a re-hab center. That's fine to get them off whatever they're on but I'm concerned about the traffic. I'm concerned about people walking around. I don't want my kids involved with anything like that.

G. Lake: Thank you. The reason I asked the applicant, come on back up please. In the beginning of the meeting the reason I asked the applicant exactly what they were going to do because I did get a couple of calls and I did here that it was going to be something totally different from what has been presented to us as a Planning Board. That's why I asked them if it was only going to be a church and nothing else but a church. The only thing that they may or may not get approved on tonight is exactly what they're asking for. I think that's very important for everybody to understand. Like fire protection was brought up. We send the applicant out to, in this case, the Mechanicstown Fire District, to find out if they will have any problems. Many times we get no response. I don't know if we got any on this one. MaryLynn is shaking her head, no. That's the best any applicant can do and ninety percent of the time the Fire Company has a problem they will respond and if they don't we just don't hear from them. I was very specific in asking those questions tonight to try and reassure you that everything we have had to this point was strictly going to be a church or a place of worship. No beds, no housing, no clinics, no young people staying all week long coming to schools or anything and that's why I asked the applicant in the beginning. I'm going to ask you once again is that what we are talking about and I think it's a simple yes or no answer and hopefully put a lot of the fears to bed. Is it strictly going to be a church?

J. Pryce: Yes.

G. Lake: On Sunday and Wednesday evenings?

J. Pryce: Wednesday evening for prayer service and Sundays.

G. Lake: As far as the notification I hit on that already. People have the right to go in and rent a facility, buy a facility and have the proper amount of land. At this point they are not asking for anything but what you see there. As far as the signs go about a three-way stop, that's strictly for the Highway Department/Town Board decision. Anybody that has dealt with government knows you just don't run around and put up stop signs or do things. The Town Board has to start a process. So if you are concerned about the speed and want more signage that's something you will have to petition the Town Board and surely we will pass on what was brought up tonight to the Town Board asking for those items out there. It's probably not a bad idea and probably should have been done a long time ago with Red Town being out there to try and slow the traffic down a little. The septic like I said will be checked by our engineers to make sure the parking and the regulations. It is all on the map. We check it as a Planning Board but we also rely on professionals to turn around and make sure the criteria are met. I hope that answers maybe some of the fears that might have come out from and again, I got a couple of calls and I was kind of set back because I just didn't expect them and that's why I asked those questions earlier and I asked again to explain exactly what we were looking at.

M. Dammeyer: What about the actual name?

G. Lake: Okay. What is the exact, what was printed in the paper we will have to take that

J. Pryce: Agape Love Outreach Mission Ministries, Inc.

G. Lake: Let me go through the Board.

W. Miele: Can I ask a question?

G. Lake: Yes, come on up.

W. Miele: I'm curious . . .

G. Lake: Name for the record.

W. Miele: I am a little troubled by this whole thing of saying yes, it's going to be just a church. It's only going to be Sunday and Wednesday evening. What happens if it get approved and three months down the road I come home from work and there's cars in the parking lot on Monday night or cars in the parking lot on Thursday night and the lights are on? I'm kind of troubled/

G. Lake: Okay. Let's touch on that real quick. I was going to come to that. You're going to have a signed Site Plan by this Board by the time we get done checking everything out making sure everything fits, making sure the parking is right and all the things we talked about. We will take all your comments and digest them and then make sure we're satisfied or not satisfied and do what we have to do. At that point the new Site Plan is going to be, will not be any different. I don't want you to think there will be a major change. The Site Plan we will sign off on is what is there and if you see something. Let's say you see a foundation going up well, they'll have to come back and start all over again. Now, if they go and do that they're in violation of the law and then it would go to the Building Department, the Code Enforcer will be out and then they will end up in Court.

W. Miele: But I'm not even bringing up . . .

G. Lake: What you're asking for, are we going to tell them that well you told us you were only going to use the place on Sunday and Wednesday evening. I don't know a way to dictate to somebody that they can't go out there and have an extra prayer service on Monday night. That would be like me telling you that you have to be home by nine o'clock. Now if you were out there and you see a bunch of juveniles playing basketball or doing something outside of the realm of what the church is again, that's what the Code Enforcement Officer is for. Right now they don't have a baseball court. It shouldn't be there. They shouldn't build one without coming back to us. If you see that then they're in violation.

W. Miele: But if they are asking for Sunday and Wednesday is that just letting them get their foot in the door so to speak then while we're here Sunday and Wednesdays oh, it's not that big of a deal if we come here on Tuesdays or it's not that big of a deal if we come here on Thursday. I'm just trying to foresee what may happen.

G. Lake: You're one hundred percent right. I'm not going to stand here and tell you.

W. Miele: I'm not saying that. Now, do they then have to re-apply to use the building other days? This is what I'm trying to find out.

G. Lake: I would say at that point they're just there and this is only my personal opinion now. I will ask for a legal opinion in a minute. How fine are you going to want to draw the line a little bit. If the congregation grows a little bit they might go to a second prayer night. I don't know.

W. Miele: But then why aren't they applying right now for the use seven days a week?

G. Lake: Because I asked them exactly what they're going to do right now because I didn't want people to think that they had a hundred different things going on. Now, if they open up a clinic they're in violation. We would be the first ones there to back it. If they open up a day care center they would have to come back to this Board and go through that process and we would try to do our very best to make sure that they did that. Again, that's what the Code Enforcement Officer is for and they're very active on doing things like that. If you're asking me would they expand their operation, that might be a better term.

W. Miele: Right.

G. Lake: If they were going to expand the operation they're getting the okay on tonight they would have to come back. The operation that they're asking for tonight and if they go into a Tuesday night and a Wednesday night prayer service, that's splitting hairs..

W. Miele: But, then apply for it at the same time is all I'm saying. It should work for everybody the same.

G. Lake: I think they applied for what they see their use now to be.

W. Miele: I just want to bring up. . .

G. Lake: I know exactly what you're saying.

W. Miele: If we get cars going down Ferrara Road that aren't supposed to does it become a mute point where you say we're splitting hairs then we're splitting hairs the other way also.

G. Lake: What time will you be out of there on a Wednesday night?

J. Pryce: Nine o'clock to nine fifteen.

W. Miele: But that's on the night that they're applying for.

G. Lake: Listen. If you want them to ask for every night use they can do that right now.

W. Miele: But then it's a little more straight forward.

G. Lake: What we tried to do is carve a very clear picture so you knew what they were going to do now. I just explained it. I just explained they have a specific Site Plan which they're

going to have to abide to. If they wander from that Site Plan then that becomes a Code Enforcement issue and a Building Department issue and that is your safety guard and that is your release to get them back in here and go through the process again. That's the straightest answer I can give you from what they're asking for tonight.

W. Miele: Okay. Thank you.

D. Coulter: Just one quick comment . . .

G. Lake: Name for the record.

D. Coulter: My name is Doug Coulter. If, for instance, it became a church. Nobody in Red Town has a problem with a church at all.

G. Lake: The application is for a church.

D. Coulter: Okay. We have no problem with a church.

G. Lake: That's what we're talking about only.

D. Coulter: Say for instance all at once they open a kitchen and they're starting to feed the homeless and we try to have them shut down. You don't think there will be a big deal because we're picking on them because the Missionaries in New York feed the homeless. Don't you think there will be a big to do about something like that?

G. Lake: What I think and the facts of the matter are two different things. What might happen, I don't know but what the facts are is that they're here for a church.

D. Coulter: Nobody has a problem with that.

G. Lake: That's the only thing the Board at this point is considering. If they decide to expand that operation then they will have to come back to us.

J. Pryce: Can I answer that quickly. There won't be a kitchen because there is no kitchen now.

G. Lake: One more. Just state your name again for the record.

M. Dammeyer: My name is Mildred Dammeyer. In our combined research we found Agape Love Multi Purpose Center. It doesn't say church. That's on Monhagen Avenue in Middletown. Agape World Prayer Tabernacle. It does not say church. That's on 25 West Main Street supposedly. Agape Full Gospel Fellowship in Pine Bush does not have the name church in it. Agape Full Gospel Fellowship in Montgomery does not have church after it. Now, I didn't get to write down the name of this church.

G. Lake: Do you want to say it slowly so the lady can write it down?

J. Pryce: Agape Love Outreach Mission Ministries, Inc.

M. Dammeyer: Mission or Ministries?

J. Pryce: Mission and Ministries.

M. Dammeyer: Does it have church?

J. Pryce: Incorporated.

M. Dammeyer: So, we still don't have church in the title.

G. Lake: Okay madam.

M. Dammeyer: Did we get an answer on getting the permission now for the church use? Will the mission be willing to commit that they will not return in the future for additional uses?

G. Lake: I didn't ask them that.

M. Dammeyer: Or additional buildings?

G. Lake: We're working on what's in front of us and that's it. Thank you. Okay, come on up here.

R. Dickerson: As I said earlier the name says Agape Love Mission. There's a difference between a mission and a church. If it was a church it would be Agape Love Church. Missions have different functions as does a church have. So, that's my point I'm trying to get at and if it's a church it should be a church. Thank you.

MOTION to close this PUBLIC HEARING at 8:29 P.M. made by R. Carr and seconded

by C. Najac.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

G. Lake: Come on back up. Do you have Mr. McGoey's comments?

D. Higgins: I believe I do.

D. McGoey: Do you have a problem with any of my comments?

D. Higgins: In looking at it I thought that what you had requested had already been put on the plans. There was a question for a dimension that showed that we had ten feet between the property line and the parking lot.

D. McGoey: I may have prepared these comments before the revised plans came in.

D. Higgins: Understood. If that's the case then you would have no problem?

D. McGoey: Correct. And if you would, provide me with a brief engineering report about the septic system can support seventy two people. That's all I have, Mr. Lake.

G. Lake: Let me go back to the Board.

H. Ross: I would want to make sure the parking lot is properly striped. The septic system I also have an issue with.

D. McGoey: They will need modifications to the septic system and will be reviewed by Eustance & Horowitz and the Department of Health.

H. Ross: They won't have to go to the Zoning Board of Appeals at this point?

D. McGoey: No. I will look at all of the engineering items.

H. Ross: The only other thing is this is an accepted use. The possibility that the retail facility could have been a raving success and been working on three shifts and had trucks backed up idling. It could be what you have out there instead of a delightful non-use. We will give these people permission if we do to read the bible and praise the Lord and anything else would require a return to us.

R. Carr: As a church I would have no problem and yes, I appreciate all of your concerns. I know your intension is to have it for a church. I don't know if there's a way to put that somehow into, to clarify it. Mr. Bacon, I look for you. I don't know if what falls under the acceptable operation of what is a church. We're approving here just a Site Plan and what falls under and can that somehow be incorporated or something incorporated. I don't think if a bible study needed an additional night I don't think anybody would have a problem. Even if they did it seven days a week I don't think it would be a problem. I think if it could be somehow in the Site Plan that you're not looking to have a soup kitchen or something. I don't know if that is something that can be put in.

J. Bacon: It can be put on the record as to what the intended use is. As Mr. Lake said if there is a substantial change that is noticed by the neighbors and anybody else they would have to come back to this Board and ask for an amended Site Plan for any additional uses and if they expand the number of parking spaces they will have to come back before the Board.

R. Carr: I hear what you're saying and there is no way per se of the operation without changing the footprint.

J. Bacon: To define what a church is?

R. Carr: Yes. I guess that's what I'm looking for. I don't know. I know it is the work of God.

Unidentified Person: Why is it a corporation and not a church?

R. Carr: Because that's a legal structure and everything can be a corporation. I do understand all the concerns also.

W. Capozella: I think Mr. Carr hit on it. Just the terminology. Now is a mission or a church different between that terminology I don't know. Also someone brought up about curbs and

so forth. Normally we don't like to add curbs if we don't have to in certain areas.

C. Najac: I didn't know what to expect. I knew we would be having a crowd. This is working. I remember a few years ago when I was sitting out there and it worked extremely well. You got here and as a matter of fact you were successful in stopping other projects. You got here tonight and were prepared. You asked all the questions that you had and. I think we did answer all of your questions. You did raise a serious concern though and that was traffic. We can't do anything about traffic for you but I would recommend you as a group again come and visit this room again before the Town Board and let them know about your traffic concerns. You also have fire safety concerns. If a fire truck can't get to you unless it goes all the way around. The biggest thing which is your fear of what could happen and I understand that fear is that you will have the ability to come back here again if anything will change on the approved Site Plan.

G. Lake: Thank you. Do you totally understand that we're going to vote on a church for Sundays and Wednesday evenings? We're not talking about anything else like becoming a club or a clinic and if it does any changes from what you've asked for tonight you would have to come back.

J. Pryce: Understood. I heard something about lights on at night. We do have occasional meetings that could fall on another night. We can't say that we won't have meetings because we will.

G. Lake: Right. I think that's within reason of any church or missionary group that has individual people who meet on certain nights but they're also gone by 8:30 or 9:00 or maybe 9:30. I think the fear is that perhaps the meth clinic would be part of the application which never was and hopefully we've answered that tonight. I think clinics of that nature are generally located in more urban areas like downtown cities. To have it here would be a pretty long walk for somebody but in saying that I think a normal church use does have certain nights for certain meetings, etc. That is common sense for a church business. If you wanted a soup kitchen which right now you don't have a kitchen but if you did decide to put one in you would have to come back to the Board. You still have to get the septic system checked out and other stuff. I think common sense prevails.

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

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

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

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

4. **FISHER EMERGENCY ANIMAL HOSPITAL** - SITE PLAN REVISION -
Extension to Final - 517 Route 211 East (41-1-42.1) #63-07

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

R. Ferris: My name is Roger Ferris representing the applicant.

G. Lake: Go ahead. Are you looking for an extension?

R. Ferris: Yes.

G. Lake: How come?

R. Ferris: They were trying to get it together and it's taken longer than they expected.

G. Lake: Is this your first extension?

R. Ferris: Yes.

G. Lake: I will go through the Board.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

C. Najac: Nothing.

G. Lake: Okay. Mr. McGoey, do you have any problems with your comments?

D. McGoey: No. I just wanted to make sure they need to satisfy the conditions of the previous approval.

MOTION for a ONE YEAR EXTENSION to FINAL made by W. Capozella and seconded by H. Ross.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

5. **SAM'S CLUB** (Gas Station) - SITE PLAN/SPECIAL USE PERMIT - Extension to Final - North Galleria Drive (78-2-5.13) #18-05

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

G. Bergman: My name is Gerald Bergman with Eustance & Horowitz representing the applicant.

G. Lake: Go ahead.

G. Bergman: We're requesting a one year extension to Final approval.

G. Lake: Okay. Have you received a couple yet?

G. Bergman: No, we have not. We applied for an extension and it was determined that we didn't require one at the time until we had an amended site plan. If you remember, the developer's agreement took almost a year to finalize through no fault of this Board and you didn't get to sign the plans until March 25, 2008.

G. Lake: Okay. Are you going to have any trouble with Mr. McGoey's comments?

G. Bergman: No.

G. Lake: I will go through the Board.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

C. Najac: Do they meet the new codes since they haven't started any construction?

D. McGoey: I'll check the landscaping .

G. Bergman: One of the things is when we came back in with the amended site plan we had to change the landscaping to meet the new codes.

C. Najac: As long as Mr. McGoey is satisfied I have no problem.

J. Bacon: What was the date of your amended approval?

G. Bergman: March 25, 2008.

MOTION for a ONE YEAR EXTENSION to SITE PLAN/SPECIAL USE PERMIT made by H. Ross and seconded by R. Carr.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

6. **DR. ROBERTO** (Office in Residence) - SITE PLAN - 585 Route 211 West
(32-2-45) #04-09

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

J. DeWinter: My name is Jim DeWinter representing the applicant.

G. Lake: Go ahead. Do you have Mr. McGoey's comments? I don't think we need to go over them. We'll be scheduling you for a Public Hearing.

J. DeWinter: There are a couple of things I need to discuss.

G. Lake: Mr. McGoey?

D. McGoey: Item #5. The width of the access drive has been limited to twenty feet rather than the twenty four feet required for two way traffic by the ordinance. This should be discussed. The access drive, the ordinance requires two way traffic to be accessed by twenty four feet. They only have twenty feet.

J. DeWinter: The site is the residence where Dr. Roberto wants to put in his office in the old Pilgrim Corners Grammar School on Route 211 West. They already have curbs and road cuts put in by the State of New York and it is a little over twenty one feet wide. In addition if we were to make it twenty four feet there is like a thirty six inch oak tree sitting right there and we would have to take that tree down. Dr. Roberto is a sole Doctor for his office and he's not going to have a significant impact.

G. Lake: What kind of a Doctor?

J. DeWinter: Chiropractor, so we're requesting that the twenty feet be used due to the lesser impact.

G. Lake: Mr. McGoey can we research that between now and the Public Hearing?

D. McGoey: Yes.

G. Lake: Is that something that we could possibly resolve or would they have to appear before the Zoning Board of Appeals?

D. McGoey: Under Section 249-12.

G. Lake: Because it's a pre-existing condition at this point. I don't want to say we can resolve it and then have a problem.

D. McGoey: Why don't we go to the landscaping?

J. DeWinter: Okay.

D. McGoey: The Board would like to see the landscaping upgraded. Do we have some photographs of the site?

J. DeWinter: No. Basically right now we have two very large oak trees. There is landscaping along the front to enhance it. There is some shrubbery and a couple of other trees proposed. Is it primarily a residence and we would ask that the landscaping that has been proposed to be acceptable to the Board.

G. Lake: This is the old school?

J. DeWinter: Yes.

G. Lake: Why don't you between now and the Public Hearing look at the new landscaping requirements.

J. DeWinter: A lot of that landscaping has to do with buffers along residential and this is a business district.

G. Lake: I realize that but we still ask to beef it up a little bit. Just look up the new landscaping code and try and bring it up to that. We ask all applicants to do that.

J. DeWinter: Okay.

G. Lake: That's just a standard thing.

J. DeWinter: As far as the lighting the Doctor is only proposing if anything the landscaping type lights along the walk.

G. Lake: Anything up high?

J. DeWinter: Nothing up high.

G. Lake: Okay.

J. Bacon: Mr. Lake, off-street parking and loading requirements I don't see a waiver ability.

G. Lake: You don't.

J. Bacon: A minimum of twenty four feet for two-way traffic other than single family dwellings.

J. DeWinter: If this was considered a Home Occupation which is a way is what it is.

G. Lake: Is he the only employee?

J. DeWinter: He's the only employee. Could we consider it as a Home Occupation within his residence?

D. McGoey: I would say make the driveway . . .

G. Lake: I guess, see if you can get twenty four feet in there somehow or we will have to send you to the Zoning Board of Appeals.

J. DeWinter: We will have another look at it.

G. Lake: Unfortunately, it's just . . .

J. DeWinter: I understand.

R. Carr: You would prefer to do that than appearing before the Zoning Board of Appeals?

J. DeWinter: Yes, at least at this point.

G. Lake: Mr. McGoey, do you need him back to another work session?

D. McGoey: I need to see the revised plans.

MOTION to schedule a PUBLIC HEARING for April 15, 2009 made by H. Ross and seconded by R. Carr.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

7. **WALLKILL ACQUISITIONS** (Caldor Plaza) - 2 LOT SUBDIVISION - Route 211 East (50-2-36) #05-09

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

D. Higgins: My name is David Higgins from Lanc & Tully Engineering.

G. Lake: Mr. McGoey you said that this did not have cluster?

D. McGoey: They would need . . .

G. Lake: Will they need to go before the Town Board first?

D. McGoey: For a cluster approval.

J. Bacon: They will have to go to the Town Board.

G. Lake: Right. Unfortunately, I don't think you already had an approval for clustering on this. So basically I think what's going to have to happen is since you want to create three lots you're going to have to get it through the Town Board and then we can continue on. I'm not saying we can't talk it over tonight. I'm saying that's the route you're going to have to go.

D. Higgins: I actually along with this submission to the Planning Board we sent a letter to the Town Board requesting that they consider a commercial clustering and it would also be a plus for us because the road going in is actually a Town road. I understand that the Town Board has to inform the Planning Board that they are in favor of it. I have a copy with me if you would like to see it. In reading it, it seems to me that they wouldn't do anything until the Planning Board had the authority to review it and then we would have to go back to the Town Board. I believe that's my understanding.

G. Lake: Okay. You're ahead of us.

D. McGoey: There are a couple of other issues that we should discuss. Item #4. The multiple lots will require a shared maintenance agreement for parking, stormwater management, water and sewer facilities, access drive, etc. Notes should be provided on the plans referencing the mutuality of use and maintenance agreement and the agreement should be submitted for Planning Board Attorney review and inclusion in the deeds of conveyance. Do you have any problems giving a shared maintenance agreement?

D. Higgins: We plan on it.

D. McGoey: For water, sewer, drainage, etc.

D. Higgins: Yes.

D. McGoey: Item #6. We noted that the Planning Board may wish to discuss the need for

sidewalks along the frontage of Route 211. Sidewalks are presently being constructed across the front of Cheeseburger in Paradise for the extension of existing sidewalks. We've been attempting to get the continuation of sidewalks along this frontage. Is that a problem?

D. Higgins: I know we talked about this before. There is limited space. Essentially there's a large culvert that cuts across there. It is close to the guard rail to the frontage of Route 211. It means we only have about four feet I'm not saying we can't do it and we may be able to do it instead of going along Route 211 to come up over the head wall and then back down.

D. McGoey: Take a look at that and the dumpsters, you've got a mess out there. You've got dumpsters. Every use out there has uncontrolled dumpsters. We would like to have it solved by putting them in dumpster enclosures.

D. Higgins: One of the things that we were going to request from the Board and we had received your comments on behalf of the applicant. The previous builder is on the site right now and he would like to make improvements to Caldor Plaza. Once he gets the financing he would be able to do improvements. The first step is to split up the parcel.

D. McGoey: And, landscaping. The Planning Board attempts to get everybody to bring the landscaping up. And then the second entrance drive there was apparently a property owner who blocked it off. Do you know anything about that?

D. Higgins: I saw one of the old maps. I don't know anything about that.

D. McGoey: Just so the Board knows, one of the property owners blocked that entrance off with barriers.

G. Lake: Mr. Bacon, do we need a Public Hearing on this because it's three lots?

J. Bacon: Yes.

G. Lake: Let me go through the Board and then we can schedule you for a Public Hearing and get you back to another work session to finalize everything up with all of these comments..

H. Ross: Sidewalks, if you could find some way to make them work. It's a good idea. The road?

D. Higgins: I believe the current status is it's a Town road however Caldor Plaza maintains it.

H. Ross: That was my next question, the maintenance. We're going to have these two (not clear). That's all I've got.

R. Carr: Yes, I also agree to the sidewalks. The one thing I believe needs attention is getting in and out because nobody has a clue. I'm not saying striping will do it, I don't know. It's kind of a free fall and has been for years.

D. Higgins: I agree.

R. Carr: That's all I have.

W. Capozella: First of all we have sidewalks not included in the sidewalk area. Now, this access road even though it's not part of Friendly's.

G. Lake: Year's ago when Friendly's came in that was a concern of the Board back then. There are agreements in place right now because they don't have a direct route out onto Route 211. They have to use the Caldor's parking lot. I know we did spend a lot of time on that back then. I think you might want to show how that's going to operate. I'm sure they're out there. I also remember us spending a lot of time on it.

W. Capozella: I would say that would be an issue.

G. Lake: Hopefully he can bring that information back. I didn't mean to cut you off but that was something that we did way back when.

W. Capozella: Okay.

C. Najac: Mr. McGoey, the lighting.

D. McGoey: I will check it.

C. Najac: And then the sidewalk at the one location. I don't know.

G. Lake: Okay. We can put you on for April 15, 2009.

MOTION to schedule a PUBLIC HEARING for April 15, 2009 made by H. Ross and seconded by R. Carr.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES