

TOWN OF WALLKILL PLANNING BOARD

MEETING

MARCH 5, 2008

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

MEMBERS ABSENT: A. Dulgarian

OTHERS PRESENT: J. Bacon, P. Hines

1. PUBLIC HEARING 7:30 P.M. - **LITTLE PUMPKIN** - SITE PLAN/SPECIAL USE PERMIT - Goshen Turnpike (60-1-68.11) #103-07

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 5th day of March, 2008 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Little Pumpkin Party and Play for approval of a Nursery Center at the premises located along Crystal Run Road, situated on tax map 60-1-68.11 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, Chairman

G. Lake: Do you have the mailings?

J. Myron: Yes we do.

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

J. Myron: My name is Jay Myron with Blustein, Shapiro & Rich & Barone, Attorney on behalf of the owners of the property. This is an application for a change of use in an existing building. Little Pumpkin is a nursery that wants to move into this space. They basically cater to infants and toddlers.

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

W. Capozella: I will wait.

C. Najac: After.

T. Hamilton: After the Public.

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

MOTION to close this PUBLIC HEARING at 7:36 P.M. made by T. Hamilton and seconded by C. Najac.

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 4 AYES

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

J. Myron: Yes.

G. Lake: Do you want to touch on them, please?

J. Myron: The first one is confirming the type of use. Mr. Bacon and I have talked about this. Basically a nursery is an approved use by a Special Use Permit. We fall within the definition of a nursery. The sessions are three hours or less per session. The facility is going to have one room that will have a maximum of eight (8) children who will be baby sat and then there are two rooms in the facility that will have a maximum of twelve (12) children and those will be classes for the children. One will be arts and crafts and the other one will be set up for activities.

Representative from Pietrzak & Phau: The second item we show fifty spaces when we actually show thirty seven spaces. That can be corrected on the plan. The third item, the connection of the use connecting to the added to the plans, currently it is going to be located in that corner of the building. Also, the square footage is going to be about nineteen hundred forty seven square feet.

P. Hines: He was also looking for a shared parking agreement.

J. Bacon: Yes.

J. Myron: This is the same parking agreement that came up a couple of weeks ago with the other day care center in the other building that is going to be built and Mr. Bacon, I believe we gave you a draft copy. We will finalize that.

J. Bacon: The only thing I don't have is the Schedule "B".

J. Myron: We will get that to you. I will take care of that tomorrow.

G. Lake: We're not going to have any problem then with any of this. I mean, this agreement will be the same one that's being used at the present time.

J. Myron: Any approval could be subject to Mr. Bacon approving the form of that agreement. We are consenting to execute that.

G. Lake: We will need all of those in place before I can sign off on the maps.

J. Myron: We will do it right away.

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

T. Hamilton: Just one question for the applicant, do you realize a very similar operation has been approved next door?

J. Myron: Yes. It's, are you aware of this?

C. Schneider: There is no conflict.

T. Hamilton: I just want to make sure.

C. Schneider: We have no conflict at all.

T. Hamilton: And, there will be enough parking with sharing.

P. Hines: I think a lot of it will be drop off and pick-up, I'm assuming for this kind of use.

T. Hamilton: My concern is with everybody else sharing it at the same time.

P. Hines: I don't think the cars will be staying for a long time.

C. Najac: I'm fine with it.

W. Capozella: I just have one question. Usually when you have kids at day centers (not clear) with some kind of a special entry system.

C. Schneider: My name is Chris Schneider. The way we have the building set up is a logging in with a locked door with employees at the desk and will open the doors to allow the parents to come in.

G. Lake: Okay, Mr. Capozella?

H. Ross: Came in at this time.

W. Capozella: Yes.

H. Ross: I'm fine with it.

G. Lake: I really don't have anything. Make sure you double check the parking and get all of the other paperwork in.

J. Myron: I will call Mr. McGoey tomorrow to make sure he has everything.

G. Lake: Do we have to give this a Negative Declaration?

P. Hines: You really should.

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

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: 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 T. Hamilton and seconded by H. Ross.

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

2. **BOWSER** - 4 LOT SUBDIVISION (Extension to Final) - Bowser Road (21-1-17.2)
#16-04

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

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

G. Lake: You need an extension?

D. Yanosh: Correct.

G. Lake: Just bring us up to speed on where you're at and why.

D. Yanosh: I'm working with Eustance & Horowitz with the septic systems. With the winter, it's difficult doing the soil testing. All of the other comments we've taken care of. When I get the septic designs all finished I'll submit all the plans in.

G. Lake: How long?

D. Yanosh: Two (2) three month extensions will be fine.

G. Lake: I will go through the Board.

H. Ross: No problems.

W. Capozella: Nothing.

C. Najac: Nothing.

T. Hamilton: How long are we going to give him?

G. Lake: We're going to give him two (2) three month extensions and that will be it.

R. Carr: Came in at this time.

J. Bacon: He can have two (2) ninety day extensions.

G. Lake: Right.

H. Ross: After than he can't get anymore?

G. Lake: Well, he has to come back to get the final approval. No changes on the map?

D. Yanosh: No, except for the septic systems. They're on the plans now.

MOTION for two (2) THREE MONTH EXTENSIONS to the CONDITIONAL FINAL made by H. Ross and seconded by R. Carr.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

3. **LYONS PAVING** - SITE PLAN REVISION - 57 Ingrassia Road (49-1-25.51)
#19-07

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

K. Duggan: My name is Kevin Duggan from Fellenzer Engineering. I'm representing Lyons Paving.

G. Lake: Go ahead.

K. Duggan: We're in front of you tonight and maybe about ten months ago you approved a two lot subdivision and a Site Plan for Mr. Lyons out on Ingrassia Road. During construction there were some changes that had to be made to the Site Plan and because of those changes we were asked to come back to the Board for another review. What we're really here for tonight is one of the changes is that the building some how got shifted to the south side of the property a little too close. We're not quite sure what happened there but it's causing him to have to install a driveway on the south side that's going to be within your ten foot setback for driveways to the property line. What our request for tonight is to be sent to the Zoning Board of Appeals for a variance, and to try and get a variance for that ten foot setback. Sheet #1 is the existing conditions when we went out and surveyed the property. Sheet #2 is the work that we're proposing to do. Now, we've had some comments from Mr. McGoey's office about stormwater and a couple of other things. We're working on that stuff. We're not done with his comments but we wanted to come here so we could be sent to the Zoning Board of Appeals since it's a couple of months process. I don't want to take up a lot of your time but that's the action we're asking for tonight.

G. Lake: You also, are you going to be able to not do too much disturbance of the wetlands?

K. Duggan: We're working towards that.

G. Lake: I just don't want to be sending you someplace and then have you come back.

K. Duggan: I do have some copies that we've been working on since I met with Mr. McGoey. If you would like me to present them, I have four or five copies. I didn't want to present them to the Board cold. We are working it out so, we're going to be under an acre of

final disturbance.

G. Lake: Okay.

K. Duggan: What's shown on your drawings right now is an attempt to put the pond in and some other mitigation for wetlands and things like that. It looks like we're going to be able to get under that. We've talked to Mr. McGoey. He does not have a set of these to his plan. We will submit it to him.

G. Lake: Just so the whole Board knows, I'm not sure if Mr. Najac was in that work session or not but, yes. The Building Department sent him back to us because when they went out they saw changes and it's a little bit more than anybody felt comfortable with as far as just saying field changes. In the process there was also some wetland issues that kind of popped up. Mr. McGoey did tell me today when I talked to him that they are ninety nine percent cleared up on this now. He basically just said the same thing. You do feel confident that you can solve this?

K. Duggan: Yes. Just so the Board is aware, when we originally came it was a subdivision. The other lot that, Mr. Lyons kept the lot to the north. That has no wetlands which are the drawings you're looking at tonight. The lot to the south is where the wetlands are and he has sold that lot to another individual. Just from our personal position right now we don't have a wetland issue, the other gentleman does. I'm not his engineer so I'm not going to say anything more about that. For our application we don't have a wetland issue. It was a stormwater issue based on the original disturbance was over an acre and we're working to mitigate that to get it below an acre. Your plans don't show it as mitigated but we've been working with Mr. McGoey's office for the last week or so to try and get it under an acre so we won't have to put the pond in that we initially showed.

G. Lake: Like I said, Mr. McGoey did indicate that to me also and I did want to pass it on to the Board. On Mr. McGoey's comments, are you going to have any problem with those between now and the time you come back?

K. Duggan: No. Some of those will be taken away with the stormwater issues.

G. Lake: Right.

K. Duggan: Everything will be addressed and I believe we're confident when we get back here after the Zoning Board of Appeals that they grant us a variance then we will be meeting all the criteria.

G. Lake: Basically you want to go before the Zoning Board of Appeals. Let me go through the Board to make sure they don't have any new questions for you.

H. Ross: None. Send him to the Zoning Board of Appeals.

R. Carr: Let me ask something. When we approved this, what's different on this just so I'm clear on what we approved?

K. Duggan: Your original approval, the building has been shifted. It was further north. That got shifted which caused an issue with the driveway.

G. Lake: What was the difference?

K. Duggan: It ended up being five feet which put us. You have to have a minimum, I think it's twelve feet of driveway and we would only have ten feet right now. The biggest issue was that we added a driveway around the property and you only approved the main entrance. We had talked to the Highway Superintendent and thought it was okay and they said it would be no problem to put it in without coming back to the Board. That's part of why we're here to clean up some of the stuff and the disturbance became more than what was there.

R. Carr: Right. My final point is talking about the building got moved five feet but the driveway, an extra driveway being put in. I do have a problem with that.

K. Duggan: We agree.

R. Carr: It wasn't a point of us approving a Site Plan.

K. Duggan: That's why we had to come back. We definitely agreed that it needed to be reviewed again.

R. Carr: It kind of like . . .

K. Duggan: If you guys for whatever reason said that it couldn't be there. It's only a gravel driveway at this point. It's not paved so it can be restored.

G. Lake: You're requesting us here tonight.

K. Duggan: Correct, and that's why we're back.

G. Lake: Anything else, Mr. Carr?

R. Carr: No.

W. Capozella: Nothing.

C. Najac: I seem to remember something about stormwater on this before and I thought (not clear).

T. Lyons: There was nothing wrong with what we were doing at the time.

P. Hines: The only improvements and I'm looking at the approved plan is the swales along the roadway and a driveway culvert pipe.

C. Najac: Mr. McGoey's comment #5 about upgrading the landscaping?

P. Hines: It looks like the landscaping that was originally approved, Mr. McGoey is suggesting additional landscaping.

K. Duggan: We're going to be working with the landscaping, move it around a little bit and clean it up.

C. Najac: My last question is comment #9. You have to have trash somewhere.

K. Duggan: We're going to work on that problem with a new dumpster location and an enclosure.

T. Lyons: Yes. I have a dumpster in there now.

C. Najac: That's it.

G. Lake: It's that, all of that needs to be on the plans.

T. Hamilton: Where was the surveyor, that he didn't pick up five feet on the building? That's a big mistake.

K. Duggan: I wasn't the surveyor.

T. Hamilton: I don't even see a surveyor stamp on the plans.

K. Duggan: On these no, the original plans were done by Daniel O'Brien. He did the final survey and that's when he picked up the five foot difference.

T. Hamilton: My other question is, the shifting of five feet why does he need this driveway? Why not put one driveway in instead of two? I don't understand it.

G. Lake: Well, somehow for some reason. I'm assuming you got a second driveway permit from the Highway Department? I know Mr. Lippert doesn't always do that. For whatever reason.

T. Hamilton: Here, there is a five foot mistake. Move one driveway. There is no need for two driveways. Now we have to calculate the impervious surface of the second driveway. Why go from one driveway to two driveways just for one mistake? It's a little overkill.

G. Lake: That's the reason he is here and it was picked up by the Building Department, a whole bunch of things.

T. Hamilton: Yes, and he doesn't tell anybody. He just continues. They find one mistake and then they make three more mistakes after the fact.

G. Lake: Is there some kind of an expansion in the back here?

K. Duggan: As we were working on putting the pond in and such we lost four spaces in the front on the original for the pond. Now that we're going to be removing the pond the parking will be back to the original design.

G. Lake: Is there a reason for the second driveway? Do you absolutely need it?

T. Lyons: What I have is a drive-through middle bay which during the planning I thought I could maybe I could swing out and come back the same entrance. I did have approval. There was someone there while I was putting the driveway in and he approved everything. Mr. Lippert was away at the time. I was actually given approval by a Town of Wallkill employee for it. I just want to get it resolved.

G. Lake: Basically we're sending him to the Zoning Board of Appeals to see if they can give him relief from the driveway encroachment.

T. Hamilton: What happens to his approvals?

G. Lake: This is an after the fact. So, he will go before the Zoning Board of Appeals and come back to another work session and clean up our comments. He can't come back until he is cleared with the Zoning Board of Appeals and we will have to take it from there.

P. Hines: To make sure.

R. Carr: A Site Plan modification

P. Hines: Yes.

G. Lake: Any other questions?

R. Carr: I just would be more comfortable. I appreciate the applicant's position. Somewhere along the line it was the Town's call approving that driveway cut (not clear).

K. Duggan: He didn't put it in until he went to the Town Highway Department and asked if he could do it and they said yes.

G. Lake: How many driveway permits did you fill out, one or two?

T. Lyons: I called for the first one and I said I wanted to do two separate entrances, what should I do? I called the Highway Department and asked to speak to Mr. Lippert to see if I needed to fill out another driveway permit for this or do it on the same one? I called out there and they said it was no problem and sent somebody out while I was doing it. They came and said to keep going and have it all put on the one driveway permit.

T. Hamilton: Mr. Hines, does that affect the site distances?

P. Hines: It doesn't look like it's an issue there. I'm also noting that on the original approval, the note that said no outside storage of construction equipment. It's showing up on the latest plans.

T. Hamilton: What happens to the retaining wall?

P. Hines: The retaining wall, it is an existing stone retaining wall. They're proposing to replace that with a segmented block retaining wall.

T. Hamilton: Is that in already?

T. Lyons: No.

G. Lake: You basically have stopped doing anything.

T. Lyons: I won't do anything further until I get the proper approval.

G. Lake: Anything else?

MOTION to refer applicant to the ZONING BOARD of APPEALS made by H. Ross and seconded by C. Najac.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

4. **BUILDING ARTS** - SITE PLAN - 1 Goshen Turnpike (1-1-58.21) #04-08

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

N. Kelsall: My name is Norman Kelsall.

G. Lake: Go ahead.

N. Kelsall: We want to rent space in a building at 1 Goshen Turnpike and also want to apply for a change of use. It's approved for a warehouse right now.

G. Lake: Will you be taking the whole building?

N. Kelsall: No, just three thousand square feet of it. It's a small shop.

G. Lake: You're going to be building furniture there or retailing it?

N. Kelsall: We do veneer work, etc. That's our speciality.

G. Lake: How about any type of chemicals or solvents?

N. Kelsall: Every shop has it. It will be stored in a proper locker.

G. Lake: Some of them may be flammable?

N. Kelsall: Yes, some of it.

G. Lake: I guess what I'm asking is between now and the Public Hearing, I think we're going to want a list of what it is, what you're going to use and the environmental impacts. There are a couple of water sources out there that we have to be worried about. We're going to want to know how you're going to contain that and how you're going to store it, use it, ventilate.

N. Kelsall: We have our shop right now in downtown Middletown. We have a contract with an environmental company who picks up once a week.

G. Lake: Where about are you in downtown Middletown?

N. Kelsall: In the old Clemson saw factory.

G. Lake: Okay, by Railroad Avenue and Cottage Street.

N. Kelsall: Yes.

G. Lake: Let me go through the Board. We will have to schedule you for a Public Hearing.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: Outside storage?

N. Kelsall: No outside storage.

C. Najac: You mentioned you were going to have solvents, etc.

N. Kelsall: It may be a one gallon can or sometimes it could be five gallons of varnish or something like that.

G. Lake: The best would be to provide us a list with the next set of plans so the Public can see what you're actually using.

N. Kelsall: We have no employees so we're not required. I can provide all the safety data.

G. Lake: Mr. Najac, anything else?

C. Najac: The list of everything you're using.

K. Kelsall: So, if I bring in a copy of everything on the chemicals we're using, that's fine?

C. Najac: And the quantity.

K. Kelsall: That may vary at times.

P. Hines: Give us the worst case scenario.

N. Kelsall: We have a fireproof locker that can hold up to thirty gallons.

T. Hamilton: And, we're looking for the process for how you use these chemicals and that it's not going to get into the septic system and whatever else. How are you going to contain paint thinner, etc? That's more or less what we're looking for.

N. Kelsall: The solvents are accumulated and disposed of.

T. Hamilton: So that it doesn't get flushed into something else.

N. Kelsall: No. It gets, the company that we get supplies from, we have to have their drums to put the stuff in and they pick it up once a month, etc.

T. Hamilton: Tell us what you do, so we don't get any extra runoff that we're not supposed to have.

G. Lake: The reason we're asking these questions is the Town has a couple of water sources out there. We don't want anything to happen to that water source. We just want to make sure that the sensitivity of what's out there is protected.

MOTION to schedule a PUBLIC HEARING for April 2, 2008 made by C. Najac and seconded by T. Hamilton.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

5. **SORGE REPAIR SHOP** - SITE PLAN/SPECIAL USE PERMIT - 378
Bloomingburg Road (3-1-89.11) #10-08

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: The gentlemen own this 1.9 acre parcel of land in the Fair Oaks area off of County Highway 76 right down from Dosen Road. It's a vacant piece of property right now. They're in the building business building houses and they need a place to store they're machinery and equipment in the winter time. It takes a while to do service on their machines back and forth. It's in the Highway Commercial zone and the question was, the biggest question was are they allowed to be there, a service repair shop type thing, storage, etc. The question is are we allowed to be here first.

J. Bacon: It's not under the Light Enterprise District?

D. Yanosh: No.

J. Bacon: If you look under Highway Commercial service and repair shops, that's what he will be doing. You can have a gas station there and pump gas and fix cars. Is that the same thing having machinery to repair? That's all it is.

G. Lake: Mr. Bacon?

J. Bacon: I was just saying it's almost like a contractor job that a repair?

G. Lake: Exactly.

M. Sorge: We're not going to advertise. It's just for our own machinery.

J. Bacon: Like excavators, etc.?

M. Sorge: Yes as well as a couple of backhoe equipment, dump trucks, etc. To get them out of the weather and it's slow this time of the year and to be able to change the oil on them and also to store some building materials.

J. Bacon: That just doesn't sound like an automotive repair. Like the code says, repair of cars. Service and repair is allowed by right.

M. Sorge: That was the closest one we could find in the book.

D. Yanosh: If you call it a service shop, it's an establishment which provides work done or duties performed for others such as maintenance, installation, repair, etc. that are provided by a dealer. It also lists personal service shop which is an establishment that provides work done or duties performed for humans such as barbershop, beauty parlors, etc. Again, it's a repair shop. We probably could put a sign doing repairs of backhoes, etc. to make it legal. They don't want to do that.

G. Lake: While Mr. Bacon is looking through the code book, Mr. McGoey's comments do you have them?

D. Yanosh: Sure. I have no problem with them. The biggest thing is the Department of Environmental Conservation. There are wetlands in the front of us along the Perry property.

Again, this is a sketch to see whether it's okay. We have to do more.

G. Lake: Let me go through the Board.

H. Ross: I just want to be clear on this. You're doing this so it would be okay for you to do the oil changes?

M. Sorge: Yes.

H. Ross: Otherwise, you would be parking equipment and you have no commercial use at your place other than storage?

M. Sorge: No. It's more or less going to be storage.

H. Ross: I'm okay with it as long as he can do it.

G. Lake: Anything else, Mr. Ross?

H. Ross: No.

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

R. Carr: Outside of Mr. McGoey's comments and especially locating the other wetlands, etc.

D. Yanosh: The best part about this is the houses front on Dosen Road. We will locate them and put them on. The back of their building will be their backyards. They won't see anything in front. The garage entrances will be away from them. We will be able to screen and do landscaping in the back of it and clean up the area.

W. Capozella: Nothing.

C. Najac: If you're going to change oil on your equipment we don't want a problem. You will have clean oil and used oil and obviously some cleanup.

M. Sorge: Okay.

T. Hamilton: Nothing.

G. Lake: Have you found anything yet?

J. Bacon: Yes. It seems as though the combination of the definition of a repair shop and service shop. It can fit it. It's not so far out that it's out of the ballpark either.

G. Lake: Anything else? If not,

MOTION to schedule a PUBLIC HEARING for May 7, 2008 made by R. Carr and seconded by C. Najac.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES