

TOWN OF WALLKILL PLANNING BOARD

MEETING

APRIL 5, 2006

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

MEMBERS ABSENT: P. Owen

OTHERS PRESENT: J. Bacon, D. McGoey

1. PUBLIC HEARING 7:30 P.M. - **SCHLEIER** - 2 LOT SUBDIVISION - Derby Road (22-1-44.3) #02-06

G. Lake: Public Hearing started at 7:40 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, in said Town, on the 5th day of April, 2006 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Sylvia Schleier, 237 Derby Road, Middletown, New York, 10940, for approval of a two lot residential subdivision located on the West side of Derby Road, 3,500 +/- feet West of Van Burenville Road under Article III, Section 4, Paragraph G of the Subdivision Regulations of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

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

D. Yanosh: My name is Dan Yanosh, surveyor for Mrs. Schleifer.

G. Lake: Before I open this up to the Public, give us what you've done since the last time you've been here.

D. Yanosh: Really, I took care of most of Mr. McGoey's comments. He has a few other ones yet that I can address. I did talk to Mr. LaBruna about conservation easements. One of Mr. McGoey's comments was to do a conservation plan for this subdivision. I look at this stuff. I looked at another one also which is up next. In order for me to do a proper plan I need topography, wetlands exactly located. I need to know my soils. But I know this one here, I have one acre lots where I could possibly do a conservation. The area in the back here are some wetlands, some good land. I meet that formula when it comes to the fifteen percent that has to be good or what ever it is for this site. This would be a semi-layout for a conservation plan. So, I know I can't do that because of the soils. So, these are my one acre lots.

T. Hamilton: One acre?

D. Yanosh: The new conservation you can go down to a one acre lot. Again, this is just a sketch. I can't really do something accurate until I do the soils testing. That's probably the most I can get out is one acre lots.

G. Lake: I guess, then, the next question would be since you're only here for two lots at this point can you in the future if they decided is it going to be possible to develop a conservation district?

D. Yanosh: I talked to her before. I talked to her the other day and she said yes. If it works out good. Again, building less road, using up less of the land. She's in favor of it. No problem at all.

D. McGoey: Can you provide copies of that?

D. Yanosh: I brought one. I don't know if everybody wants one.

D. McGoey: Who ever wants it and one for the file.

D. Yanosh: Okay. I will submit it.

T. Hamilton: Mr. LaBruna, the conservation layout. I thought it was two acre sites otherwise, they had to be three acre site, not one acre. He's saying one acre.

S. LaBruna: I will have to check again. It depends. I think he may be able to get one acre sites.

T. Hamilton: One acre sites?

D. McGoey: You figure your lot count on two acres. But then you can use the smaller lot.

T. Hamilton: Okay.

G. Lake: Let me go through the Board.

A. Dulgarian: After the Public.

H. Ross: I will wait.

R. Carr: I will wait.

W. Capozella: I will wait for the Public.

T. Hamilton: I will wait.

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

MOTION to close the PUBLIC HEARING at 7:44 P.M. made by R. Carr and seconded by W. Capozella.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

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

D. Yanosh: Sure, no problem.

G. Lake: Item #1 also?

D. Yanosh: I just took care of that one. Item #2, I'm going to meet with Eustance & Horowitz probably on Friday to do the soils testing on the lot. I can mark the side yard setback on Sheet 2. Any comments, I haven't heard much from Mr. Lippert.

T. Hamilton: Did you do any of these yet, Dan?

D. Yanosh: What do you mean?

T. Hamilton: The comments on the setbacks, etc. from the last work session?

D. Yanosh: Which one are you looking at?

T. Hamilton: Well.

D. Yanosh: Prior.

T. Hamilton: Yes.

D. Yanosh: No, this was not from the last meeting. These are comments from my latest submittal. These are not from the last meeting.

T. Hamilton: This says March 20th comments when they were prepared. You haven't done anything on it?

D. Yanosh: The side yard setback to be clearly dimensioned on Sheet 2. I do show forty foot and sixty foot on both sides and the rear and the front is sixty. I just labeled the setbacks. I have no problem with that. I do show the right-of-way grading plan. I do show the culvert detail and the typical driveway profile is a minus two percent slope. I don't know what else Mr. Lippert was looking for. What ever he needs I will take care of.

G. Lake: What about the agricultural notice?

D. Yanosh: That was sent out. I gave a copy to MaryLynn.

G. Lake: Do we have it.

D. Yanosh: Yes.

T. Hamilton: The Highway Superintendent's comments?

D. Yanosh: I don't know what else he wanted. The other plans that I've done before, I show the right-of-way grading, culvert detail and the typical driveway.

T. Hamilton: He wants driveway specifications.

D. Yanosh: I've never seen that before. This is new to me.

T. Hamilton: Town driveway specifications still do not appear on plans as requested.

D. Yanosh: I don't know what the driveway specifications are.

T. Hamilton: Details of Town of Wallkill street specifications will be provided for the portion of the driveway within the existing right-of-way.

G. Lake: You will take care of that?

D. Yanosh: Yes, I will take care of it.

G. Lake: Let me go through the Board. What ever the specifications are, you're willing to do?

D. Yanosh: Sure, no problem.

A. Dulgarian: Yes. The driveway you show on the proposed lot #1, that doesn't go all the way up to the house?

D. Yanosh: It's up to the house.

A. Dulgarian: Discussion with Mr. Yanosh. Note #8 on your plans, you're putting that on all your plans now or is that something you customarily do?

D. Yanosh: That's what you've asked for before.

A. Dulgarian: I like it.

D. Yanosh: That's what you've always wanted and I try to put it on.

A. Dulgarian: I have no issues.

H. Ross: I don't have anything.

R. Carr: I have nothing either.

W. Capozella: No. I don't have any problem.

T. Hamilton: As long as all these comments are satisfied.

G. Lake: If have no problem with Mr. McGoey's comments?

D. Yanosh: No problem at all.

G. Lake: Other than Mr. Lippert's comments.

T. Hamilton: Do we have the agricultural notice here?

G. Lake: Yes.

D. Yanosh: Just for the sake before we go, some of the Town's have the secretary mail the notice out to make sure. You're trusting me by my saying yes.

T. Hamilton: Well, we want to see it.

D. Yanosh: I did submit one.

G. Lake: Anything else?

MOTION for a NEGATIVE DECLARATION subject to all comments from Mr. McGoey, this Board's comments and the Highway Superintendent's comments made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for 2 LOT SUBDIVISION approval subject to all comments from Mr. McGoey, this Board's comments and the Highway Superintendent's comments made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

2. PUBLIC HEARING 7:35 P.M. - **MILLER** - 4 LOT SUBDIVISION - Van Duzer Road (54-1-2.2) #46-04

G. Lake: Public Hearing started at 7:48 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, in said Town, on the 5th day of April, 2006 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of George D. Miller & Sons, Inc., P.O. Box 845, Sands Station Road, Middletown, New York 10940 for approval of a four lot residential subdivision, located on the East side of Van Duzer Road, 1,500 +/- feet North of Stivers Road under Article III, Section 4, Paragraph G of the Subdivision Regulations of the Town of Wallkill. All parties will be heard at said time and place. S/Gary Lake, Chairman

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

D. Yanosh: My name is Dan Yanosh, surveyor for Mr. Miller.

G. Lake: Bring us up to date since the last time you were here.

D. Yanosh: I've been here a few times with this. I got caught in the moratorium with this one also a while back so now the lots meet the new three acres. Eustance & Horowitz will be out this week to do the soils testing on the lots. One of Mr. McGoey's comments before was how do you do this. This is combined with the one on County Highway 78 on the North side. You remember we were trying to look at combining everything together. So, what I did here was try to put everything together as a conventional subdivision for the whole property. It's not saying what the soils look like. Combining all of them together, the steepness of the slope here, steepness here, wetlands in the middle we tried to take care of. So this would be a conventional three acre lot subdivision right here. Again, subject to soils and the rest of the stuff. Soils testing, take away your steep slopes, your wetlands, the buffer zone here up top are the better build-able soils and some below. I think a conservation subdivision like this. Again, I think the soils in here are good enough to hold this many lots. It's kind of rough in there. We will probably get a half dozen lots.

A. Dulgarian: I don't believe you would end up with that many lots anyway because of the slopes and the wetlands.

D. Yanosh: Sure. I can't really do it because of the concept. This is a true topography, this is a true topography, the stuff in the middle we took off of "USDS". You really can't tell until you get out there and do soil testing.

T. Hamilton: This is the topography for that.

D. Yanosh: Mr. Miller . . .

T. Hamilton: You can't use the old figures for what you have on that section?

D. Yanosh: We did. We combined the two together. What we did here with this is we took the topography, topography and added the stuff in the middle here and this is going to be my conservation subdivision with one acre lots. This is the spot here that I want to leave. This is my conservation area all around the outside through here. I'm not sure on the rule for the road frontage if that has to be waived for the two hundred feet around the whole site.

S. LaBruna: Yes.

T. Hamilton: The two hundred feet is only where it borders the Town and County Highway. It isn't the interior is the way I understand it.

D. Yanosh: On this plan here, I would be taking two hundred feet off of Van Duzer Road.

T. Hamilton: Yes.

D. Yanosh: And two hundred feet off the County Road.

T. Hamilton: But not on the other lot.

D. Yanosh: Although that's waive-able also.

T. Hamilton: Mr. LaBruna, do they pick where to leave the conservation piece or do you have some input on what you would like left?

S. LaBruna: Yes.

T. Hamilton: That's what I'm saying.

S. LaBruna: It doesn't specify that we have it but I'm sure that the Planning Board.

G. Lake: I think at this point, first of all he's just showing a copy of what he thinks he can build. Like any other project in the sketch plan we would now say, wait a minute we would rather see this or rather see that.

D. Yanosh: The development here, etc.

G. Lake: We're trying to make them work into the new conservation laws.

A. Dulgarian: That's only if he wants to go that route.

G. Lake: Right. In this case, he's not but he's showing us his option.

D. Yanosh: Yes. It's an option. It's very difficult.

A. Dulgarian: It's beautiful out there.

D. Yanosh: Sometimes the conventional subdivision would be a better deal with a private road or something. Probably less homes.

A. Dulgarian: Mr. McGoey, again this is pretty new to us. Should something like that be . . . how does that work with the conservation area to be kept as far as the bridge, the pond, etc. Does somebody pay taxes on that?

D. McGoey: There are different approaches to it in the new ordinance.

A. Dulgarian: And, that's up to us if it touches Town property as to how it fits?

D. McGoey: Yes. You may want to get an answer from the Town Board their philosophy on how they want to handle it, whether they want a conservation easement dedicated to the Town or rather they want it part of a number of the lots.

A. Dulgarian: A homeowner type situation.

D. McGoey: Right.

A. Dulgarian: So, we need to get this now before this actually comes before us?

D. McGoey: We should probably do that.

G. Lake: Basically, if that's what he was going for. The tough part I find in getting this brought up a little bit without going out and doing a lot of the soils testing and the topography and having developed this plan and yet we need to remember with this plan it's a very rough sketch.

A. Dulgarian: But he doesn't know his numbers exactly and stuff like that.

G. Lake: Right.

A. Dulgarian: But when they come back to us, we ought to know how we want to handle this. We better get our guidance up front.

G. Lake: I don't know. I don't want to speak for the Town Board but I don't think we want a bunch of little dedicated pieces of land.

A. Dulgarian: Then we have to figure out what other options we can use.

D. McGoey: The other option would be to extended the lot lines out.

G. Lake: Or, an association.

J. Bacon: Yes, so you would have individual ownership of the bigger lot or you would have that one taken care of . . .

A. Dulgarian: That would probably be . . .

G. Lake: Let's face it. We don't know five years, ten years, fifteen years what direction things might change again. We might also have all these parcels throughout the Town that the Town owns and the Town might say that was nice back then but let's sell them.

G. Lake: Okay.

R. Carr: I just want to make a point. Not every lot really provides for a conservation subdivision. I think the first one probably didn't and now this one. I don't know what is the

D. Yanosh: What we would do is take this whole area right here and block these out and this area here would be the conservation area.

R. Carr: I understand that part.

T. Hamilton: But it should be two hundred feet from the roadway.

R. Carr: I think part of the reason for doing a conservation subdivision. I don't know to just pack a few houses in tighter together on a straight cul-de-sac.

D. Yanosh: Every site is different. This is probably a better layout due to the fact that nobody is going to be doing anything in the back anyway. In my mind it makes more sense.

G. Lake: And that way, it keeps the land owned by somebody. Let's now get too far on this tonight.

T. Hamilton: Just remember when you do it the next time is that the two hundred feet is on roadways.

D. Yanosh: Sure.

G. Lake: Let me go through the Board.

A. Dulgarian: After the Public.

H. Ross: I will wait.

R. Carr: I will wait.

W. Capozella: I will wait.

T. Hamilton: I will wait.

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

MOTION to close this PUBLIC HEARING at 8:01 P.M. made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES, 1 NAY

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

D. Yanosh: The overall development plan we went through. The agricultural statement was taken care of. Again, Eustance & Horowitz at the end of the week or the beginning of next week we will finish that. The Highway Superintendent comments. This is what he must want. He wants the sixteen foot wide entrance with the Geotextile underneath and the subbase in the right-of-way and clean it up a little more. This is more of what he is looking for. I have no problem with that.

G. Lake: We're going to try and get that in a packet so everyone knows.

D. Yanosh: I've done these before which is no problem.

A. Dulgarian: You don't show the limits of clearing on the three lots.

D. Yanosh: On page 2.

A. Dulgarian: Oh, you're not showing it in the front?

D. Yanosh: I think . . .

A. Dulgarian: The one about the stone wall?

D. Yanosh: I will say all stone walls not in the area of construction will remain.

A. Dulgarian: Right, but I'm talking about trees, areas of disturbance, that type of thing. So, you're allowing them to clear all of that?

D. Yanosh: That's the maximum they can do. It's a long driveway with the septic and the house. You have to clear some.

T. Hamilton: You have to mark the clearing limits.

A. Dulgarian: Yes. Around the house, etc.

D. McGoey: The clearing limits are on sheet 2.

A. Dulgarian: Right but we also talked about old growth trees. Plus the easement goes around the perimeter of the house, not around the perimeter of the property. If you are comfortable with that. That's a beautiful piece of property.

D. Yanosh: I could bring it in tighter along the driveway and around the house.

H. Ross: I agree.

D. Yanosh: All existing large trees, stone walls, etc. No problem.

G. Lake: Anything else?

H. Ross: No.

R. Carr: Nothing.

W. Capozella: Four lots. You show lots #1, #2, and #3 and show the acreage. Do you have to show

on this the acreage for lot #4?

T. Hamilton: Shouldn't we get a complete build out?

D. Yanosh: I did show. One of the first plot plans I had. The one I had in the beginning.

T. Hamilton: Yes, none of us have these that we could look at.

D. Yanosh: They were submitted in the first packet. If you want some more, I can submit them.

T. Hamilton: We want to know about that fourth lot and what can happen to it. It's approximately ninety seven acres.

D. McGoey: He submitted that.

G. Lake: Did you submit that to this Board?

D. Yanosh: I'm pretty sure when I first came in on this. I have a small one of this that I submitted way back when.

W. Capozella: My question was just that lot #4, do you need to show on this even though you're not building a home, shouldn't you be showing the acreage on it?

D. Yanosh: I did.

W. Capozella: It's part of the subdivision. It's not listed.

D. Yanosh: On sheet #2, the remaining lands of Miller for lot #4 is 97.25 acres.

W. Capozella: It's on sheet #2.

D. Yanosh: I had a meeting today with John McCarey and all the surveyors about our maps. They're looking to, you're going to find out that we're boxing out the dimensions. We're making the things more clearer. They have a scanner down there that scans the maps and preserves them so when you want a map twenty years from now instead of getting those copies you get now. The problems with all these contours and the shading some people do you can't read the maps very well. We were talking about something like this showing an overall plan which has the dimensions on the first sheet. That's why the acreage isn't on that sheet because it would be too crowded. You won't be able to see anything. We expand it out on sheet #2 making it a little bit more readable so you can read the stuff better.

T. Hamilton: Nothing.

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for a FOUR (4) LOT SUBDIVISION approval subject to Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

J. Bacon: Mr. Lake, just one note on that one is the item about the trees. In the subdivision code it talks about a tree if it's over eight inches in diameter shall be preserved.

3. PUBLIC HEARING 7:40 P.M. - MILLER - 5 LOT SUBDIVISION - Mt. Hope Road (65-1-5.2) #122-04

G. Lake: Public Hearing started at 8:11 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, , will be held at the Town Hall at 600 Route 211 East, in said Town, on the 5th day of April, 2006 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of George D. Miller & Sons, Inc., P.O. Box 845, 24 Sands Station Road, Middletown, New York, 10940 for approval of a five lot

residential subdivision, located on the North side of Mount Hope Road (County Highway #11), East of Van Duzer Road, under Article III, Section 4, Paragraph G of the Subdivision Regulations of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

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

D. Yanosh: My name is Dan Yanosh, surveyor for Mr. Miller.

G. Lake: Bring us up since you were here last.

D. Yanosh: Again, the one thing I showed before was the overall plan for combining all the lots together and took care of Mr. McGoey's comment #1. We tried to move the houses back according to septic. I might be able to move lot #1 back a little bit. Eustance & Horowitz will probably be out there Friday or the beginning of next week.

D. McGoey: How about the right-of-way to the landlocked parcel?

D. Yanosh: I checked the deed and there was nothing in there right now but Mr. Miller does own them all. He does own all those pieces. I don't know what else we can do.

D. McGoey: If he sells them.

D. Yanosh: Should I supply a deed that says he's granting the right-of-way?

G. Lake: I don't think we can. I will have Mr. Bacon verify that but I don't think we can create an invalid lot.

J. Bacon: You need to prove that it's not landlocked.

D. Yanosh: It's not. He owns it now.

J. Bacon: Oh, he owns everything.

G. Lake: We have the same owner.

J. Bacon: Right. There should be some type of an easement on that.

D. Yanosh: I can do that.

J. Bacon: That parcel probably has something on it.

A. Dulgarian: Also for utilities.

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

A. Dulgarian: After the Public.

H. Ross: I will wait.

R. Carr: I will wait.

W. Capozella: I will wait.

T. Hamilton: I will wait.

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

D. Clinton: Good evening. I'm Dewitt Clinton. I live at 96 Pocatello Road. The reason I'm here is because of that easement that you were talking about. Right across the street from me is a shale bank which is a right-of-way into that landlocked area. We have some problems on Pocatello Road with traffic, considerable amount of traffic. It's unsafe to walk on the road. We do anyway but you have watch out and jump in the ditch when cars come down fifty five miles an hour. It has a forty five mile an hour speed limit so traffic is really tough. I guess my main point is that the neighborhood would like to see us stay as a neighborhood without more intersections like what would come out of that shale bank if that landlocked area has to have some way to get out.

D. Yanosh: This is the lower one.

D. Clinton: I'm sorry. You can come up later. The lower one probably comes out further down on Pocatello Road.

D. Yanosh: No. Mount Hope Road. The one you're interested in is across the street.

D. Clinton: I apologize.

G. Lake: Anyone else?

MOTION to close this PUBLIC HEARING at 8:14 P.M. made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

G. Lake: Mr. McGoey's comments on this.

D. Yanosh: I will check on the right-of-way. If not, we will put one in the deed or I will talk to Mr. Miller about eliminating a lot line in between the two of them. We will take care of that by an easement.

G. Lake: How much land is left behind that?

D. Yanosh: It's probably a twenty five acre piece and the other one along Van Duzer is probably thirty five acres.

G. Lake: Now, the one off Van Duzer, you can get to from Van Duzer?

D. Yanosh: Correct.

G. Lake: The one that we were talking about behind it you can't get in anywhere.

D. Yanosh: I will check again with the title search, etc.

G. Lake: I guess my question is do we have twenty five acres as just an easement to get a connection

to the road.

D. Yanosh: Again, for the future yes. Again, this lot here stands on it's own. I don't think you want anymore traffic coming out the County Highway #11. I can't get access across from here to there and there's a low area in the back. The only access would be from Van Duzer Road. In the future, I would have no problem connecting it together. There's nothing else I can do but eliminate the lot line back here and combining it into one property. I have a hard time doing that with the Town Clerk and the Assessor's Office combining the lots together.

G. Lake: I just don't think we should turn around and say, just a right-of-way. Maybe we have the ability right now to hook it up to access out from Van Duzer and make it a viable piece some day. And, maybe never but I know I don't want to know twenty years from now and find out.

D. Yanosh: He can't subdivide that one without doing the rest. If it did something along Van Duzer Road it will include the rest of the property, I know that. It won't be landlocked that way. We can put it in writing that way that if they ever do something on Van Duzer Road, that piece that would be connected to it at that time.

D. McGoey: You are only combining that Van Duzer lot now.

D. Yanosh: I haven't surveyed. I could go to the tax map and say that's a problem I have with the Assessor sometimes combining the lots together. If I could combine those together by filling out a form down at tax map and the Assessor will get the roll that way. Can I do it that way?

D. McGoey: No. What I'm saying is to do it as part of the other subdivision that it adjoins.

D. Yanosh: Do you want a map showing that?

D. McGoey: Revise your subdivision map. You have that subdivision in here don't you?

D. Yanosh: Yes.

D. McGoey: So, we could modify our approvals to make that landlocked parcel part of this parcel.

D. Yanosh: Do you want it part of that one or do want it with this one?

D. McGoey: I think what the Board is saying that you can't get to this through here.

D Yanosh: I think you would rather have me connect it to this piece here.

D. McGoey: Okay.

D. Yanosh: There's a field right there.

A. Dulgarian: Had a discussion with Mr. Yanosh.

G. Lake: Let me go through the Board.

A. Dulgarian: I don't know if that's cool to do it that way but I think something needs to be done. I really don't have a problem with what we're looking at here. This one building lot in the front, that's existing?

D. Yanosh: Correct. It's been existing for years.

A. Dulgarian: Mr. McGoey, that house is existing on a separate lot, that barn is a stand alone.

D. Yanosh: No. I cut that away from the farm years ago.

A. Dulgarian: How did you do that?

D. Yanosh: Subdivision.

A. Dulgarian: Isn't a barn by definition an accessory building and we can't allow it because it is not accessory to anything.

D. Yanosh: I think I got a variance from the Zoning Board of Appeals.

A. Dulgarian: As far as what we're looking at, it's a pre-existing, non-conforming because we're not separating that.

D. Yanosh: Correct.

A. Dulgarian: I have nothing else.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: I know I mentioned before about moving the houses back from the road. I know this house is already existing by the road but . . .

D. Yanosh: Eustance & Horowitz hasn't even reviewed the final design yet.

W. Capozella: As far as pushing them back it would be better for the homeowners.

D. Yanosh: The building lots, reverse the house and pump up the hill they have that right also but to go through Eustance & Horowitz again to change the septic design.

T. Hamilton: Mr. Yanosh, did you do something about the agricultural notice being mailed?

D. Yanosh: Yes.

T. Hamilton: I see the notice on the plan but that doesn't show that it was mailed.

D. Yanosh: Mr. Miller is the only one that owns agricultural property in that area and you did receive the notice.

T. Hamilton: What about the statement it says now or formerly?

D. Yanosh: It's not agricultural property.

T. Hamilton: What isn't agricultural, you are now but you're subdividing. Whoever is bordering these properties, you still have other parcels that are agricultural here also.

D. Yanosh: Mr. Miller owns all the property. He owns the only agricultural property around there and the law says notify everybody who is in the agricultural district. Not every homeowner in this area gets a notice.

A. Dulgarian: Oh, it's not like they're within five hundred feet of the agricultural property?

D. Yanosh: No. Only people who are agriculturally. The law says the Town law requires the agricultural notice should be mailed by the Town Clerk to all owners that are farmed within five hundred square feet of the boundaries.

A. Dulgarian: Oh, okay. So, that doesn't have an effect on the homeowners.

D. Yanosh: Really, if you're a farmer next door, they let you know. Someone is subdividing the property. You might want some of it. I'll buy it from you.

A. Dulgarian: Not only that if you're just notifying these new homeowners.

T. Hamilton: The new people.

D. Yanosh: The agricultural note on the plan shows that farming goes on in the area.

T. Hamilton: But, does the homeowner see, if he buys one lot, does he get this whole Site Plan because this note is on the whole Site Plan? It's not on each individual lot.

D. Yanosh: We went through that once before.

T. Hamilton: Right?

J. Bacon: Yes.

G. Lake: Anything else, Mr. Hamilton?

T. Hamilton: I would like to see something where these are being set back. The clearing lines don't show on this either.

A. Dulgarian: Right. Mr. McGoey mentioned that.

D. Yanosh: If you go there, it's open field for the most field.

W. Capozella: Lot #1 has a utility line.

D. Yanosh: All those lots are in an open field.

T. Hamilton: What are we doing with that right-of-way?

G. Lake: When they come back for that landlocked piece, we can get that right-of-way?

A. Dulgarian: Is that possible?

T. Hamilton: Do we get it wide enough for a road to go back there?

J. Bacon: You can put on the record that when he comes back in that he combines those lots.

D. Yanosh: You saw the overall plan. We will probably come back with an overall plan combining all those together.

G. Lake: So, you're going to have to get with Mr. Bacon and work out what ever language that could be done for now.

T. Hamilton: Was there something from the County?

D. Yanosh: I don't know. I never got anything back from them.

T. Hamilton: It's a County road.

G. Lake: If we didn't hear from the County, then they're happy.

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 W. Capozella.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for a FIVE (5) LOT SUBDIVISION approval subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by W. Capozella.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

4. PUBLIC HEARING 7:45 P.M. - **MILLER** - 7 LOT SUBDIVISION - Mt. Hope Road (65-1-5.22) #45-04

G. Lake: Public Hearing started at 8:26 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, in said Town on the 5th day of April, 2006 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of George D. Miller & Sons, Inc., P.O. Box 845, 24 Sands Station Road, Middletown, New York 10940 for approval of a seven (7) lot residential subdivision, located on the South side of Mount Hope Road (County Highway #11), East of Van Duzer Road, under Article III, Section 4, Paragraph G of the Subdivision

Regulations of the Town of Wallkill. All parties of interest will be heard at said time and place.
S/Gary Lake, Chairman

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

D. Yanosh: My name is Dan Yanosh, surveyor for Mr. Miller.

G. Lake: Bring us up since the last time.

D. Yanosh: This was here for a Public Hearing almost two years ago just before the moratorium. The lots were conforming to the old zoning of two acres. The situation with the well and pollution has since been rectified by the Health Department and the Department of Environmental Conservation. There was never a problem with our lot. The problem with the well turned out to be their own construction of their own well. That prevented me from getting Preliminary Approval. Again I got caught in the moratorium. So, now I'm back with the same subdivision. We made the lots bigger, 3.18, 3.03, 5.8, 6.74, 3.26, and 3.03. All of them have frontage on the County Highway. I already received my approval from the County for the driveway cuts from them. Within a week we will be testing soils with Eustance & Horowitz.

G. Lake: So, all your driveways come out on Mount Hope Road?

D. Yanosh: All driveways are off Mount Hope Road. Nothing will come off Pocatello Road.

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

A. Dulgarian: After the Public.

H. Ross: I will wait.

R. Carr: I will wait.

W. Capozella: I will wait.

T. Hamilton: I will wait.

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

D. Clinton: Okay. I will start again. I live at 96 Pocatello Road which is right next to Ivory Lane which is right across the street from the shale bank. On this plan the shale bank is located over here in the upper right hand corner and that's a right-of-way out of this area that's down in here that isn't being subdivided. I, myself, as a homeowner, am concerned that it will someday be used as a right-of-way out on to Pocatello Road which would cause additional traffic in that area. It would be detrimental to the neighborhood atmosphere. He's going to tell you that they're not coming that way of which I'm glad but I just wanted to make sure that I could put it out and make sure that you guys would remember that. I think he took care of the human waste situation, is that what you were talking about?

D. Yanosh: Yes.

D. Clinton: Because they had spread human waste on the property when we were here two years ago. We're just looking out for our neighborhood. It's a nice neighborhood. If we could get the speed controlled it would be even a better neighborhood. We're working with the Police Department every so often.

G. Lake: With the speed, unfortunately a few years ago the State pushed the speed limit up and Pocatello was one of them. I know I also live on a rural road and they pushed it up. A Town of fifty thousand doesn't have a right to post speed limits.

D. Clinton: Danny was our Councilman. He was trying to get the State to pass a law and before him it was Howard Mills.

G. Lake: Right.

D. Clinton: He tried to work on it and even when he was at the State level. They can do it in the Town of Waywayanda at thirty miles per hour but we can't.

G. Lake: I don't know how they do it.

D. Clinton: Oh, I know. The main thing would be to try and cut down the number of intersections on Pocatello Road.

G. Lake: Right.

D. Clinton: I know that Mr. Miller has some other right-of-ways. The church took over one of them down by Mr. Brown's house but they said they wouldn't use it as a right-of-way to come out to Pocatello Road. There's another one through their yard is also part of a right-of-way that comes out from that same church area. The only other one is this one up here by the shale bank. It would really kind of ruin the atmosphere of the neighborhood. I know he's not doing it now but I'm concerned about the future.

G. Lake: And, if he did decide to come in within the next ten years on this parcel you would be re-notified.

D. Clinton: Good. Thank you.

G. Lake: Anybody else from the Public?

MOTION to close this PUBLIC HEARING at 8:31 P.M. made by H. Ross and seconded by A. Dulgarian.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

G. Lake: Mr. McGoey's comments?

D. Yanosh: The bulk table, if you look at sheet #2 and see what I've done is on each sheet what ever lot conforms, has the bulk requirements on it. Department of Public Works comments I got the letter already that the driveways were approved. Put the houses back, I have no problem doing. Lot #3 is okay. Lots #4 and #5 might go back a little bit more. That's no problem. We're okay in there. Eustance & Horowitz again, will be out here in the coming week to do that. The agricultural statement again was sent to Mr. Miller who is the only one who owns agricultural lands.

G. Lake: That shale bank, is that build-able land?

D. Yanosh: No, not really. It's very steep in here. I did show a plan a long time ago about putting a

road in off of Pocatello Road with four or five lots but now I can't do that because the land is steeper back here. It's wet back in here with the stream that goes through. It's very tough to get back in there. We'll probably leave that as conservation land or something later on.

G. Lake: At this time, there are no plans?

D. Yanosh: No plans for anything else right now, right.

G. Lake: I will go through the Board.

A. Dulgarian: I would like to see the homes moved back further. Mr. Yanosh, are there power lanes through this property. It looks perpendicular to each other.

D. Yanosh: Yes.

A. Dulgarian: Secondly, I know it's been resolved, but I do remember now that it was mentioned that this property was before us a while ago the human waste issue, how did that come about?

D. Yanosh: It had nothing to do with my client. What it is, here is the correspondence that I got from the Department of Environmental Conservation and the Health Department. What it is dumping human waste mixed with other chemicals. It's bio-degrade-able fertilizer. It's regulated by the Department of Environmental Conservation. They have no problem with the information and one of Mr. Miller's clients that was using the farm for hay or corn had somebody come in and spread it. It turns out that one of the wells got polluted.

A. Dulgarian: I believe that. I can't understand why anybody would allow human waste to be dumped under any circumstances.

D. Yanosh: It's eco-lined. It's Department of Environmental Conservation approved.

J. Bacon: I'm not sure on that.

A. Dulgarian: I thought another farm was doing it also.

D. McGoey: It's approved by the Department of Environmental Conservation.

A. Dulgarian: I would like to find out about that. Other than that, I have no problems with the project. It's reasonable.

H. Ross: I agree. The speed limit in that area.

G. Lake: For what ever reason, a few years back the State came in and changed speed limits throughout the Town and, I don't know where else. My road is a windy road and it is now posted

for forty five. Anything else?

H. Ross: No.

R. Carr: Nothing.

W. Capozella: I just want to clarify. Lot #6 is that cemetery, right. I know you have to have a one hundred foot buffer for a building.

D. Yanosh: Yes.

W. Capozella: But, I guess it's not clear to me are you splitting that cemetery between lot #6 and lot #7?

D. Yanosh: The edge of it itself is probably . . .

W. Capozella: Well, it looks like you're splitting it and what's the little line there? Is that the one hundred line buffer or . . .

D. Yanosh: We show the tree line. Had a discussion with Mr. Capozella.

W. Capozella: We're going to maintain these tree lines and have it noted?

T. Hamilton: Whose in the cemetery?

D. Yanosh: It's an old family cemetery.

T. Hamilton: Are you splitting it right there?

G. Lake: Do you have the boundary?

W. Capozella: He's either splitting it or, he's showing the tree line. But then it looks like it's still being part of it cut off.

J. Bacon: He's splitting the buffer, that's for sure.

T. Hamilton: Whose buried there and can it be split down the middle like that to the property line now?

J. Bacon: No structure may be constructed or excavation no closer than one hundred feet from the property line of a burial site. The Planning Board may require fencing for the cemetery.

G. Lake: You're not going to disturb it?

D. Yanosh: No. If you want us to put up a fence or something like that, we can do something of that nature.

S. LaBruna: There's nothing that I know of in the code.

T. Hamilton: We should know whose buried there. Don't we have to research whose there to find out. If somebody wants to come up to that property now and visit that grave, whose cemetery is it?

J. Bacon: Yes and who is going to maintain it.

D. Yanosh: I don't know.

G. Lake: It's not an active cemetery?

D. Yanosh: No, it's not active.

G. Lake: Do you have any idea how old it is?

A. Dulgarian: An active cemetery has something buried in it.

G. Lake: No, not that.

T. Hamilton: Somebody's family is buried there.

G. Lake: That's what I mean. Let's find out if it's . . . It's similar to the one on Cashmere Road, in the middle of no place and you have nobody maintaining it.

T. Hamilton: That was all researched. This wasn't researched.

G. Lake: Right. That's what I'm saying. Let's find out what it is.

D. Yanosh: I have no problem if you want me to move that line over twenty feet?

W. Capozella: I would feel comfortable if you move this line.

D. Yanosh: If I can move it over twenty feet would that be far enough.

T. Hamilton: The thing is research it and find out who is buried there.

G. Lake: There has to be a way to find out whose buried there and if there are any heirs. I can tell you the one on Van Burenville Road. I can tell you that the Town is maintaining that cemetery

because nobody else does. I believe there is someplace in the law that's what would happen to this if there is nobody to maintain it.

D. Yanosh: I will move the line.

G. Lake: Research it and get back to us on that.

D. Yanosh: Twenty five feet from the line that I have right now.

G. Lake: Okay, Mr. Capozella?

W. Capozella: Yes.

G. Lake: If we need anything else you're willing to . . .

D. Yanosh: Sure.

G. Lake: Does the Board want to see this?

D. Yanosh: I can move that line over a good forty feet.

J. Bacon: Lot #7 is that un-develop-able?

D. Yanosh: Yes. It has steep slopes, etc.

J. Bacon: What are your plans for that lot?

D. Yanosh: The only thing is, one or two lots down below. We did have a buyer for a big lot down here along the County Highway. Actually I think it was after the first Public Hearing we had we found out that the cemetery was actually there and what was going on with it. Again, the only thing we can do on the top here, my original plan had four, five or six lots back up there. I can't do that now because all these other lots come up so high. I would be lucky if I could get two lots back in there.

J. Bacon: It might be a good idea to have that ultimate development plan.

D. Yanosh: Right up here is two and two down below and that's all I'm looking at.

G. Lake: When you come in again for that piece you would have to show the whole thing.

T. Hamilton: You have an Orange & Rockland right-of-way through there you're going to get two up top?

D. Yanosh: I really think so. You're right, I might only get one.

G. Lake: That's why I asked you before if there were any plans immediately in the future and you said, no. And, then you did explain about the shale bank.

T. Hamilton: But he did make sure he had four spots so, he has been looking to do something.

D. Yanosh: Sure. In the beginning, I thought of coming off Pocatello Road.

J. Bacon: Yes. You might want to put a note on it.

G. Lake: It's up to the Board.

T. Hamilton: He might be able to make the lots off of Pocatello Road come back into those areas where he won't have anything going on to Pocatello Road. Now, he's saying he might get a couple up here.

D. Yanosh: But with the steepness of the slope on lots #4, #5, and #6 I can't a driveway through there. There are steep slopes in the middle of the property. So, I can access probably only two more off of the County Highway.

T. Hamilton: That's what we're asking and if it was shown on there then maybe we would have something to work with but we don't have it. When we question you now, you're bringing up these other lots that you're looking to do.

D. Yanosh: Again, I did do a future layout when I first submitted the plan. It did show the old zoning.

T. Hamilton: In this packet here?

D. Yanosh: It did show four lots. The original subdivision right here. It should be in your packet from the beginning.

T. Hamilton: The beginning? We don't dig back in our basements. You're here now with the subdivision and what you're going to do now. It should be in these packets then.

G. Lake: Which he's not doing now.

T. Hamilton: He brought up that's what he was looking to do though. So, now it is before us because we know about it.

D. Yanosh: You asked for that a while ago. That was one of Mr. McGoey's comments. I did prepare this before and it was four lots off of Pocatello Road, 2.0, 2.4, 3.13 and the remaining was a thirty three acre lot. Again, now that these lots fronting on the County Highway are back further, I don't have much to go by. Plus the size of the lots are now three acres or more because of the soils.

G. Lake: I think the question is then, do you want to stop here and have him bring in what is left or what?

T. Hamilton: What we used to do, is make them do the whole thing on one application so we knew what the plans were with the overall build out. But, I guess we're not doing that now.

J. Bacon: He did that back in 2004.

T. Hamilton: But that's an old application. In our packet that we have now, we don't have it.

A. Dulgarian: I believe that what ever he will be able to do will be very minimal and shouldn't be an issue.

MOTION for a NEGATIVE DECLARATION subject to Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Nay

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES, 1 NAY

MOTION for a SEVEN (7) LOT SUBDIVISION approval subject to Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by W. Capozella.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye
W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES, 1 NAY

5. **TEN KATE** - LOT LINE CHANGE (Re-approval) Alton Road (8-8-8.2) #12-05

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: This was an approval I got from the Board back in January. The sixty days to file had elapsed.

G. Lake: No changes.

D. Yanosh: No changes, the same map as before.

A. Dulgarian: No problem.

H. Ross: No issue.

R. Carr: No issue.

W. Capozella: No issue.

T. Hamilton: No problem.

MOTION for Re-approval of LOT LINE CHANGE made by H. Ross and seconded by A. Dulgarian.

A. Dulgarian: Aye

H. Ross: Aye
R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

6. **GOLDEN TRIANGLE** - SITE PLAN/SPECIAL USE PERMIT - Consideration of Findings
- Silver Lake Scotchtown Road (40-1-16) #74-02

Cancelled.

7. **FINI** - LOT LINE CHANGE - Bellevernon Avenue (77-7-5 & 6) #100-05

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: This is a lot line consolidation on Bellevernon Avenue. It went to the Zoning Board of Appeals and they put us in the Highway Commercial Zone because they figured that was more restrictive zoning. We got our variances for the setbacks and for lot size and everything we needed from the Zoning Board of Appeals. Now, we're back here to get Planning Board approval for Site Plan approval and a lot line consideration for this lot on Bellevernon Avenue.

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

D. Yanosh: Yes, no problem.

G. Lake: You already talked about the Zoning Board of Appeals.

D. Yanosh: No problem with Mr. Lippert's comments.

G. Lake: I will go through the Board.

A. Dulgarian: When we first looked at this project as a two-family and we thought that was quite ambitious. Obvious the Zoning Board of Appeals did also. I think it is an excellent use of the property. My only concern was the topography here. Mr. Yanosh, did you do a field for the topography?

D. Yanosh: Yes.

A. Dulgarian: So, there's six to eight feet from the front to the back of the property?

D. Yanosh: Yes.

A. Dulgarian: And, you're showing two new proposed railroad retaining wall. The driveway does have to go in front of the house. It's common to what's going on there. It has no negative impacts. I do think that the topography does need to be addressed because there are a lot of problems on that side of the road.

G. Lake: We can have him do the details on it and Mr. McGoey will check it.

A. Dulgarian: I have no problem with that.

G. Lake: So, we can approve it subject to Mr. McGoey re-checking it.

A. Dulgarian: It's very steep there and there's a lot of water problems coming.

G. Lake: Do you have a problem with that Mr. Yanosh?

D. Yanosh: No problem.

H. Ross: I go along with Mr. McGoey re-checking it.

R. Carr: No problem.

W. Capozella: I agree with that.

T. Hamilton: Just the Highway Superintendent's comments. A fire hydrant being close to the driveway is one of them.

D. Yanosh: I've never seen a problem with a hydrant. I put the driveway opposite the entrance to Avenue B. I will talk to Mr. Smith about that.

G. Lake: Yes, why don't you.

D. McGoey: I think you may need a check valve on the sewer. Check with Mr. Smith.

D. Yanosh: Okay.

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 H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for LOT LINE CHANGE CONSOLIDATION subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

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

Cancelled.

9. **JACKSON** - 7 LOT SUBDIVISION - (Extension to Preliminary) - Reservoir Road (32-2-53) #11-03

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

J. Jackson: My name is Jim Jackson and with me is Mr. Andreshak.

G. Lake: You're looking for another extension?

J. Jackson: For the Board, I've been coming here for three years. It's been not totally my fault with the delays in this project. I spent one year waiting for a well driller from October to October of last year. My Engineer had not performed at all as far as the commitment to doing the new site drainage plan that had to be done. It's over two years now and I reached an agreement with Mr. Andreshak who will be the developer. We've had one meeting with Mr. McGoey a couple of months ago about what had to be done on this. Mr. Andreshak has hired an engineering firm in Goshen to move this along where it's been in dead water, dead issue for a year and a half. I'm looking at this point for one more extension that I can possibly and I think, very lightly, get this finished up with Mr. Andreshak who knows much more about what's going on than the way I started this project myself as just a homeowner. I just thought that the help that I would get would be more professional than what I had. I'm on the verge now of the final lay of this thing and I need to ask you for one more extension

to finish up. We have two wells drilled on the property and I want to move on to the next step.

G. Lake: Mr. McGoey, whereabouts is he?

D. McGoey: Pardon me?

G. Lake: How far has he gotten? Does he have any approvals whatsoever?

D. McGoey: He's got, we held the Public Hearing on September 2004 and he received Preliminary Approval originally on September 2004 and then we granted him an extension in March of 2005 and another extension in October of 2005.

A. Dulgarian: What would be do?

J. Bacon: The Preliminary runs out six months after the date of your action but a waiver for a reasonable period may be given in case of hardship. So, there's no certain time period that specifies. The State wide Town Law also has a statement where the Planning Board may (not clear) Preliminary Approval after six months as the Town requires.

A. Dulgarian: Does he run out now?

J. Jackson: Yes. Six months would be this month.

A. Dulgarian: How much time do you need?

Mr. Andreshak: I've already retained Pietrzak & Phau, they've already surveyed.

A. Dulgarian: Can you get it done with another six month extension?

Mr. Andreshak: The application before the Health Department has been closed given the lack of, the delay of well being installed. I just came on back in November, 2005. The well was installed but the Health Department closed on the application in December.

J. Jackson: It has expired.

A. Dulgarian: So, he's also got to get back to the Health Department. Six months won't do any good for him then.

Mr. Andreshak: Six months won't allow the Health Department but in that six months there will be a lot of progress done especially with the retention storm drain water design. We will have the application and will submit to the Health Department and probably work on their response back to us. I think the lots are being re-engineered now. I know six months for me I know Mr. Jackson had two extensions but I'll get a lot done in that six months where the only thing we would be waiting for six months from now would be the approval from the Health Department.

G. Lake: The Health Department is how long?

D. McGoey: Six to eight months.

T. Hamilton: My question for our Attorney and Mr. McGoey on the original Preliminary was done on our reviews of plans and engineering but now they're not using that engineering firm. These are new plans, new engineer, and everything else. Now, how does that work out with us continuing something that is brand new. New engineers, new plans, everything?

D. McGoey: If he doesn't change the lot configuration. They could obtain permission.

Mr. Andreshak: We're going to have new engineering. We're not going to use the old data.

T. Hamilton: Then, we're not extending a Preliminary because this is brand new.

G. Lake: I hear what Mr. Hamilton is saying. Right now what keeps you in the ball park is that this isn't going to change very drastically as far as lot size goes and whatever road details and any other engineering.

A. Dulgarian: (Not audible).

G. Lake: In other words, you can't go outside that box because . . .

Mr. Andreshak: Right.

G. Lake: Once you do that, it's a whole different project.

Mr. Andreshak: Correct.

G. Lake: And then you will have to go under the new rules. I don't know how big these lots are but it could be a conservation district or create the lots. What you need to understand if this Board decides that you have to stay within the perimeters of what the Preliminary Approval is. If a lot is two hundred by two hundred, that's the way you have to keep them.

Mr. Andreshak: Right.

G. Lake: You can't turn around and change those.

Mr. Andreshak: No, I'm not changing the lot lines and besides they're all over three acres. I'm not changing that scope of the project. I'm not changing anything.

G. Lake: You're going to finish up engineering and what not that has not been done to this date?

Mr. Andreshak: Correct.

G. Lake: Mr. Hamilton, is that . . .

T. Hamilton: That's what I was worried about, that it was going to be something different.

Mr. Andreshak: No, I'm leaving it the way it is.

A. Dulgarian: Six month extension to Preliminary and it will be one more shot to get it done.

G. Lake: I just want you to know he will have to come back one more time because I don't believe they will be finished with the Health Department.

A. Dulgarian: Can he get enough stuff done to move on?

D. McGoey: They need to revise these plans, get them back to the Chairman for signature with the

Preliminary stamp and then they go to the Health Department. They have not satisfied the conditions of approval.

A. Dulgarian: What do you suggest to us?

D. McGoey: I think they need more than six months.

A. Dulgarian: Can we do a one year because of the hardship?

J. Bacon: It's up to the Board to decide what the time is.

A. Dulgarian: Then I make a motion to give them a ONE YEAR (one time) (LAST). If they can't get it done during this time, that's it, and they would have to start from scratch. I think that's reasonable. We're giving them a pretty big window to get this done.

T. Hamilton: As long as there are no major changes.

A. Dulgarian: Yes.

H. Ross: I concur with that both ways.

R. Carr: I have nothing.

W. Capozella: I have nothing.

T. Hamilton: Nothing.

G. Lake: Just so you understand, this is your last extension unless something major occurs.

MOTION for a ONE YEAR EXTENSION to PRELIMINARY APPROVAL (Last) subject to all comments made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

10. **DRAKE** - 2 LOT SUBDIVISION - Drake Road (22-2-56.2) #59-05

Cancelled.

11. **STAPLES** - 2 FAMILY- 8 Clark Street (52-4-6) #99-05

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

Mrs. Staples: I received a variance for a deck and the Building Inspector wants to have me become a legal two-family before he grants me the Building Permit for the deck. I bought the house as a single family. I kind of fell into this hole.

G. Lake: Is it a two-family house right now?

Mrs. Staples: It's a studio apartment. I have a Certificate of Occupancy for a single family but at this time I'm requesting for a two-family.

T. Hamilton: Unless you take out the kitchen.

Mrs. Staples: Right, and I don't want to do that.

W. Capozella: When you bought the home . . .

Mrs. Staples: I bought the home as it is and I kind of opened a can of worms when I went for the Building Permit.

A. Dulgarian: When you purchased this house it wasn't a two-family?

Mrs. Staples: Well, they called it a mother-daughter, the real estate agent.

T. Hamilton: Okay.

G. Lake: We understanding. Basically the Building Department want you legal. We will schedule a Public Hearing for you. Mr. McGoey has a few comments. Did you see these?

Mrs. Staples: Yes.

G. Lake: Do you have questions on them between now and the Public Hearing?

Mrs. Staples: We had a work session a couple of weeks ago.

D. McGoey: Item #1 could be an issue. The question is it's a two-family already.

Mrs. Staples: I have a Certificate of Occupancy which states a single family home. I have the Certificate of Occupancy when I went to re-mortgage they found that the shed that was on the property never had a Building Permit. So, I had to get a Building Permit for the shed that was there when I bought the house.

G. Lake: How long have had the house?

Mrs. Staples: Eight years.

A. Dulgarian: This happened because you put up a deck?

Mrs. Staples: I haven't put up the deck yet. I want a Building Permit to put the deck on. I opened a can of worms. I've spent I don't know how much money and I haven't bought a piece of wood yet. I had to get a new survey.

G. Lake: Mr. Bacon?

J. Bacon: I don't know right now. You've owned it for eight years?

Mrs. Staples: Yes.

J. Bacon: And, you've been using it as a mother-daughter but you only have a Certificate of Occupancy for a single family?

Mrs. Staples: Right.

G. Lake: She purchased it that way.

Mrs. Staples: I bought it that day. This Certificate of Occupancy is dated 1988, a single family residence signed by Edwin Steenrod.

J. Bacon: Wait, say that again.

Mrs. Staples: This is the Certificate of Occupancy with a date of 1988.

A. Dulgarian: I have to tell you, if you tried to put a two-family on that small of a lot in that neighborhood, it would be rough to get.

J. Bacon: I don't think the Planning Board has the power to grant a use of a two-family with this lot size.

Mrs. Staples: But, I'm being taxed as a two-family.

J. Bacon: That's the argument you can make before the Zoning Board of Appeals. You've owned it all these years and you have a neighbor that has a two-family.

T. Hamilton: It's on your tax bill that it's a two-family?

Mrs. Staples: Yes. I received my variance.

T. Hamilton: For the deck. Too bad, you didn't ask for the two-family while you were there.

Mrs. Staples: I didn't know.

J. Bacon: I hate to send you to the Zoning Board of Appeals.

Mrs. Staples: For what?

T. Hamilton: We can't do it.

H. Ross: We don't have the authority to change . . .

T. Hamilton: Put a two-family on this undersized lot.

G. Lake: We're sending her to the Zoning Board of Appeals for the lot size. The two-family home is us.

T. Hamilton: She needs the variance for the lot size to meet the criteria for a two-family.

A. Dulgarian: Correct. So, she would have to come back here again with her variance in hand and then we can grant approval for the two-family.

G. Lake: A couple of things.

Mrs. Staples: Then I will need another variance extension for the deck because that's only good until July.

A. Dulgarian: You can do that with a letter.

J. Bacon: You can make a recommendation.

A. Dulgarian: Mr. Lake, I know we're going to send her as a referral, not as a denial, but do we as a Board send her as a referral with a recommendation for the variance.

T. Hamilton: We never have.

A. Dulgarian: I would say in the note that we recommend an extension of her other variance due to the run-around she's been getting.

Mrs. Staples: How can the real estate sell houses as mother-daughter?

G. Lake: What I can't understand is how the title company?

Mrs. Staples: That's my question. You pay a lot of money for a title search. Is that part of their job?

T. Hamilton: Sure.

G. Lake: Okay. You're basically going to be sent to the Zoning Board of Appeals and that's a two month process by itself.

MOTION to refer applicant to the ZONING BOARD OF APPEALS for variance on overall lot size for two-family home and to have an extension of prior variance granted made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

Tabled for further review.