

TOWN OF WALLKILL PLANNING BOARD

MEETING

APRIL 15, 2009

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

MEMBERS ABSENT: None

OTHERS PRESENT: J. Bacon, D. McGoey

1. PUBLIC HEARING 7:30 P.M. - **DR. ROBERTO** - SITE PLAN/SPECIAL USE PERMIT - 585 Route 211 West (32-2-45) #04-09

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 in said Town on the 15th day of April, 2009 at 7:34 P.M. or as soon thereafter as the matter can be heard that day on the application of Dr. Christopher Roberto, P.O. Box 618, Howells, New York 10932 for approval of a Chiropractor Office in Residence, 585 Route 211 West (32-2-45) under Section 249-26 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.

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

G. Lake: Give us a brief description.

J. DeWinter: Dr. Roberto proposes to construct a four hundred eighty square foot office in his existing residence on Route 211 West. It's the old Pilgrim Grammar School property. We're proposing to add some landscaping and the parking as required for the office as well as the residence. I believe we have met all the questions and requirements that your engineer requested. The only thing that is outstanding is we're waiting for the surveyor to give us an interpretation as to the coordination to the Town monument system.

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

A. Dulgarian: I choose to wait.

H. Ross: After.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: After.

T. Hamilton: After.

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

MOTION to close this PUBLIC HEARING at 7:35 P.M. made by H. Ross and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

H. Ross:

G. Lake: You already mentioned about Mr. McGoey's comments. Are you going to be able

to take care of the one item left?

J. DeWinter: Yes. That will definitely be done.

G. Lake: Let me go through the Board to see if they have anything else?

A. Dulgarian: Nothing.

H. Ross. Nothing.

R. Carr: No problem.

W. Capozella: No problem.

C. Najac: Nothing.

T. Hamilton: No problem with the use except for the survey for the vertical and horizontal datum.

J. DeWinter: You have the meets and bounds. It's just a matter of having the vertical and horizontal datum.

G. Lake: We will check that before we sign off.

J. DeWinter: We will get that to you.

G. Lake: Anything else, Mr. Hamilton?

T. Hamilton: No.

G. Lake: So, you know everything will have to be tied in and have us check the map.

J. DeWinter: Absolutely.

MOTION for a NEGATIVE DECLARATION subject to all comments from Mr. McGoey and this Board made by A. Dulgarian and seconded by T. Hamilton.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for SITE PLAN/SPECIAL USE PERMIT subject to all comments from Mr. McGoey and this Board made by W. Capozella and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

2. PUBLIC HEARING 7:35 P.M. - WALLKILL ACQUISITIONS - 3 LOT SUBDIVISION - 360 Route 211 East (50-2-36) #09-05

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 in said Town on the 15th day of April, 2009 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Wallkill Acquisitions LLC, P.O. Box 563, Chester, New York 10918 for approval of a three lot Commercial Subdivision located at NYS Route 211 and Carpenter Avenue under Section 209 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.

J. Sweeney: My name is James Sweeney and I'm here on behalf of the applicant. With me is David Higgins from Lanc & Tully who will explain the details of the plan

D. Higgins: The project is for the proposed subdivision of the Caldor Plaza. The property is approximately nineteen to twenty acres in size. Currently the Caldor Plaza itself and the bank are on that one piece of property. The applicant is proposing to subdivide that property into three individual lots for the purposes of financing from the bank for the improvements and then hopefully the future tenants will be able to develop the property. What's proposed, is one of the lots, lot #2 is a lot that has no frontage. We had made a petition to the Town Board for a commercial cluster and they issued a letter to the Planning Board that they were actually supportive of that application and that they're approval would be reviewed after approval by the Planning Board. The second action that was proposed to the Town Board was the abandonment of the road which currently is a Town road but is maintained by the owner of Caldor Plaza. Again, we have a letter from them that they would be supportive of the abandonment of that right-of-way and give it back to the applicant.

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

A. Dulgarian: I will wait.

H. Ross: I will wait.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: After.

T. Hamilton: After.

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

Unidentified Person: I would like to speak.

G. Lake: Come on up and give your name for the record, please.

Mr. Blackstar: My name is Mr. Blackstar. I own a parcel of land that adjoins this property. I have no objections for anything they do as long as they don't disturb my property. If they will interfere with my property then I will object to this.

G. Lake: Okay. Thank you.

MOTION to close this PUBLIC HEARING at 7:43 P.M. made by R. Carr and seconded by W. Capozella.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

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

D. Higgins: I do.

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

J. Sweeney: Let me talk about the sidewalk issue.

G. Lake: Why don't we come back to that one?

J. Sweeney: The rest of them I don't feel there are any problems.

G. Lake: Do you have any problem with the dumpster?

D. Higgins: No we don't. We show dumpster enclosures that could be coordinated and we've provided those on the plan. We have also provided some striping for the paving of the parking areas between the road and Cheeseburger in Paradise access way. The next is the landscaping question. The subdivision regulations call for trees with a caliper of 1.5 inches. We show a total of forty eight trees. The majority are along Carpenter Avenue and then there are four trees over here.

D. McGoey: Have you revised it to comply with the new landscaping regulations?

D. Higgins: We haven't yet.

D. McGoey: Do you have a problem doing that?

D. Higgins: No.

D. McGoey: Items #4, #5 and #6 all have to do with the landscaping so, you will have no problems with any of them?

D. Higgins: No. And, item #7 I think I can discuss with Mr. Bacon on the cross easement language.

D. McGoey: And item #8 whether the abandonment of Schleman Road will be accomplished along with the cluster approval by the Town Board.

G. Lake: And, I'm assuming the gentleman that just spoke you're not going to be doing anything around his property at this point?

D. Higgins: No. I don't believe there will be any changes over there.

G. Lake: Okay. The sidewalk issue.

J. Sweeney: Let me talk on that a little bit. There are two standpoints. One is a practical standpoint and one is a legal practice standpoint in dollars and sense. The applicant has taken this property over and owns it and is trying to re-hab it and is trying to secure a party and has secured some financing but has not secured a tenant. He can't secure tenants unless he produces some type of physical improvements to the property and it appears and appeals to the tenants that are on the horizon. The cost is very important. The sidewalks is costly because of the crossing of the stream. It is costly and it puts it over the boundary. It will result in a negative situation as far as the client's concern. So that from the practical standpoint detracts and really ends the project because he can't go ahead with that type of cost with no tenants. The second problem is one of legality and that is a pretty simple one and has been around a long time in our State anyway. This is an off-site improvement. You really can't compel an off-site improvement whether it be a road, whether it be sidewalks, whether it be curbs drains and so on. You can't compel it. Sure you can deny the project if you don't approve the off-site improvement or don't supply the off-site improvement but you better have a strong reason for denying the project. And, we're of the opinion that sidewalks are not something that is a result of this project. There is a basic rule that your counsel will tell you that whether it's under the Federal rules or the State rules there is something called an essential (not clear). Does this subdivision which is really drawing a line around what is already there and has already been approved many years? Does that result in the need for a sidewalk? And, the answer I can say is obviously no but there are a couple of cases out there that your counsel should be aware of and maybe is aware of and that is a case in Long Island and most more recently in the Town of Woodbury not too far down the line. You just can't do that. Don't go there. You can't explain it. You don't have the rationale. Is it a good idea, no doubt but the costs of that can't be enforced upon this applicant because that rationale rule isn't there. So, I'm suggesting to you from a standpoint you're going to deplete this project because the man can't do it. From a legal standpoint you don't have the grounds to do it. Thank you.

G. Lake: The sidewalk issue along Route 211 has come up and you haven't been here in a while Mr. Sweeney but it's come up because there are a number of people who do walk along Route 211 and we've asked every project along Route 211 either to try and do a sidewalk at the present or at least join the district when and if or in this case because it's a State road when and if the State comes along and wants to compel you to do it. I think that's been this Board's position right up and down Route 211. I think safety is a pretty good and I'm not a lawyer but I think safety is a pretty good compelling reason when you see the number of people that do walk along that particular section of the road and not only people pushing baby carriages but a lot of our young people right out of Middletown High School. I'm not sure we don't have and I don't think we're unreasonable at this point about what

direction to go but I don't think we will truly want to abandon the opportunity maybe not at this point and this is only myself speaking at this point of eliminating the process of having that. Surely when the entire site gets re-developed we will have to re-visit that in some way. I'm going to refer to Mr. McGoey right now because I had a doctor's appointment that day and that's why I wasn't at the meeting but the Department of Transportation was out there and I think they were supposed to send us a letter?

D. McGoey: They were supposed to give them some direction verbally.

J. Sweeney: They did give us some verbal direction.

D. Higgins: I spoke with Mr. Hankins of the Department of Transportation a couple of weeks ago and I guess that they had received some correspondence and essentially what they had indicated is that they would allow the sidewalk to go down to a three foot width and to be placed adjacent to the curb. One condition on their approval was that the Town would take responsibility of maintaining that sidewalk to make sure that it is cleared of snow and ice. I don't know what the Town's position is on that but as Mr. Sweeney said it would be a financial issue for the applicant trying to move forward on this to make improvements to the building and attract tenants and the money isn't yet up front he won't be able to do that.

G. Lake: Again, and I'm sure that this Board and even the Town wants to see this property get up and running again but surely we understand that also. I guess we have to talk about how we're going to achieve what's good for both at this point.

J. Sweeney: Is there a sidewalk district in place?

G. Lake: We have talked to the Town a couple of times. At this point there is not a sidewalk district.

J. Sweeney: I don't think my client would be adverse to participating in a sidewalk district.

G. Lake: The problem I think out on Route 211 East is I don't know and maybe Mr. Bacon can help me out here, I don't know what authority the Town would have to create a sidewalk district on Route 211 East. And, I'm not sure the Town would be willing to send people out there to clean that sidewalk in the winter because it falls under general maintenance. We have a sidewalk law.

J. Sweeney: That was the whole purpose of the sidewalk district that the Town would maintain it and pro-rate to the individuals that are in the district.

G. Lake: I know we have a sidewalk law that says you have twenty four hours to get it cleaned.

D. McGoey: Would your client be willing to construct the sidewalk as a future improvement when they come back to the Board for further development?

J. Sweeney: I'm not sure I understand. Do we do it now?

D. McGoey: No. Agree now that when they come back to this Board for another out-building or an improvement to the existing building or an expansion to the existing building when they're finances become and they get tenants would they be willing to do the sidewalk at that time?

J. Sweeney: That's a possibility. I can't answer yes or no but it certainly is not a possibility to do it now.

G. Lake: I think what Mr. McGoey just mentioned is the right way to go and I think.

J. Sweeney: It's something that can be explored with the client. I can't give you a definitive answer at this point but certainly I can give you the definitive answer if you want it now the answer would be no.

G. Lake: Let me go through the Board.

A. Dulgarian: The history of this parcel is, was it owned by the same one that owns the one next to it? At one time wasn't it a three-phase thing and included up the hill?

D. McGoey: It was under Columbia Development.

A. Dulgarian: This was like the second or third phase of what was going to happen?

D. McGoey: Exactly.

A. Dulgarian: That's why I hate phasing. Now if we do a subdivision here and they sell off that how can we hold this guy responsible for what he agrees to or may or may not be agreeing to? That's one of the things that I'm worried about. I have a question for you. Behind the bank you're showing parking spaces and it looks like either curbing or paving. Is that existing or is that proposed?

D. Higgins: The area that is up against Route 211?

A. Dulgarian: No. The backside of that building.

D. Higgins: So, the front would be Route 211 East?

A. Dulgarian: Right.

D. Higgins: Yes. There are parking spaces over there. Right now there are a couple of dumpsters over there and that's where we've provided dumpster enclosures.

A. Dulgarian: And, that is in line with the road into the Cheeseburger In Paradise?

D. Higgins: There's a lane there. There are a number of lanes that go between Schulman Road and the Cheeseburger in Paradise.

A. Dulgarian: One of my biggest concerns is not so much or a little bit about the subdivision but at what point maybe when the main building comes back do we get some corrections in this parking lot. Right now you can just drive through there. Painted lines don't mean anything as we've found in the project. And at what point do we improve the conditions in there. I know the applicant is looking to do a subdivision and then every time we do a subdivision like this it just takes away from the value of the entire project and then we get left with a piece that sits there and dwindles. That's my biggest concern about this. I would be interested to hear what everybody else has to say.

H. Ross: I'm in agreement with Mr. Dulgarian but I do recommend the economic benefits and I think later down the road when we're looking at actual building plans and real tenants the issues with striping will eventually work out.

R. Carr: I will say this that I think everybody would be in agreement with the improvements to this property. It's beneficial to the whole Town. If the property gets subdivided there is no guarantee that the money goes into this building. There is just no guarantee of that. There is no way that an agreement here today that when this project comes back with a different potential owner would be compelled to put the sidewalk in. I would like to address the parking lot, it's just lines but we may never be able to change because if this person comes in those are separate lots and could be under separate ownership. This becomes a mixed bag because it's very difficult to accommodate this. I would have no problem saying let's do it when you come back to do this. This is the third time we're seeing this as well as a third different owner and that there is no guarantee that the same people will be talking here. I

don't know what the solution is. I understand what you're saying that you're just doing this for re-financing.

J. Sweeney: In this economic environment we all take chances.

G. Lake: I think the solution on some of the things you guys just said is that they still have to go before the Town Board to get the commercial clustering. In the commercial clustering from the Town I believe Mr. McGoey and Mr. Bacon can correct me but they will have to enter into an agreement at that point and even right now and the time they come back they would be working out what those agreements are as to what the preliminary improvements would be under the commercial clustering. They have to go to the Town to get that.

R. Carr: So you're saying that we could make the sidewalk conditioned upon the improvements across all three lots and would be somehow conditional with the Town Board approval?

G. Lake: I think once they get that because there would be cross easements. I think we could look for the improvements of the big lot especially.

A. Dulgarian: How do you go back to the improvements on Lot #2 and Lot #1 or Lot #2 or Lot #3?

G. Lake: Because they would have to have the inner agreements that crosses the lines under the commercial clustering.

A. Dulgarian: Okay. Not being an attorney is that . . .

D. McGoey: It will be a mutuality, use and maintenance and we will have to make sure.

J. Sweeney: It will be an obligation. If the Town Board established a sidewalk district he then has the power to tax everybody within the boundaries of that district and assess each the costs of what the Town Board feels is important and it will be done on a proportional basis. That's the way to do this and not to saddle one guy in the chain with the burden of picking up the most expensive part of the chain. That's not the way to do it.

R. Carr: I still have a concern with the parking lot as it is a wild ride currently and this is no way to keep it in control just by striping.

D. Higgins: We kept the parking spaces and the layout that was done a long time ago. We have plenty of parking spots. We can change the striping and re-arrange.

W. Capozella: It seems as though a lot of issues can be resolved in the agreements. I don't really have anything against the clustering. Again we would like to see some of these things get done and maybe work something out with the applicant to get a portion done and then down the road. You will have to come back to us as you get additional tenants in there. If we can work out a couple of those agreements with this subdivision because I would like to see the applicant move forward

J. Sweeney: I can't answer your question about the sidewalks. Sidewalks are not usually big but this one is.

W. Capozella: I thought the Department of Transportation had a comment on that.

D. McGoey: It sounds like they agreed to a narrower sidewalk so they don't have to change the structure.

J. Sweeney: Regardless, it's still costly.

D. Higgins: It would probably be around forty thousand dollars.

C. Najac: Forty thousand dollars, from which point to which point?

D. Higgins: It would be from the property line that is shared with Cheeseburger In Paradise up to essentially Schleman Road.

C. Najac: So, what are we talking about, two hundred and twenty plus or minus feet?

D. Higgins: Two hundred fifty feet approximately something in that range.

C. Najac: I think the Town Board would probably go for it and we would probably agree also. We will probably bend backwards to help you get there but as I see it part of my duty being here is to look out for the residents in the Town of Wallkill. Right now we have an issue with people walking in that vicinity and somebody will get hurt. I will do what I can and I would hope that the Department of Transportation could put a sidewalk over that culvert and if the guardrail were put back where it belongs and instead of having a three foot sidewalk you could have a four foot sidewalk. So, for two hundred fifty feet at forty thousand dollars it's worth it. Now I'm more than willing and as the rest of the Board had also said to work with you and wait until you start to get the money in and get something happening and if we don't ask for this stuff now we won't get it. We are on Part III on this

project and we didn't get it because we should have asked for it when Part I came in and we are still not getting the sidewalk in front of Friendly's because it was subdivided earlier. How long is that, that is another three or four hundred feet, correct?

D. Higgins: Approximately.

C. Najac: And that was before Part I. We are willing to work with you but to come up and say no we won't do it because it's too expensive that doesn't go with me. And, if I have to be the only vote that says no I will be that only vote.

J. Sweeney: It's not a question of we won't do it, we just can't.

G. Lake: Let me finish with the Board and then we will hash this out a little bit. Anything else, Mr. Najac?

C. Najac: That's it for now.

T. Hamilton: The other thing we have had projects before us before when we re-did the Orange Plaza and a lot of the other projects when they came in to us that one whole parcel we made the applicant at that time show an interior layout or a complete layout of the whole project how everything ties in and where the accesses go from one to the other, not waiting for them to sell portions and then trying to get pieces to fit. We made them design the whole parking lot on a layout showing how the interior is going to work. That was the new zoning. The landscaping islands have to be taken care of are in the new zoning now that the applicant is going to have to comply with. Let's get this whole project designed internally on paper to show how the other two lots are going to get tied in because we've done it before. We've done it with every other project that has come in for re-design, new tenant. They've done renovations and so forth.

J. Sweeney: We're not adverse to doing that.

T. Hamilton: I'm just saying let's get it on here now and like some of the Board members were saying how do people get through here because you don't show anything. Yes, we want it all down on paper first. We've done it before. There's no reason why we can't do it again.

G. Lake: Anything else?

T. Hamilton: No.

G. Lake: Let's get back to the sidewalks. You know it's an important item with this Board. I think the Board also understands exactly what you want to do and I think the Board just wants it between now and the time you get clustering and get together with Mr. Bacon so we have a good understanding that when the bulk of this project comes back. You said yourself there may be things in the works with the main building to maybe get it at that point because I think Mr. Najac is right. You're now talking one and we're talking three at some point and I would think at that point when the major end of it comes back I don't see why we wouldn't be able to achieve that at that point.

J. Sweeney: You're talking about the other two buildings?

G. Lake: Well, I'm talking. You're going for clustering. What I'm saying I think the Board understand on the two little buildings on there right now that might be a big burden to put that sidewalk in but when the main building comes back which is one hundred seventy one thousand square feet . . .

J. Sweeney: How does that (not clear).

G. Lake: We will need notes put on the map and worked out with Mr. Bacon explaining that when this comes in and continues developing that the sidewalk will be done at that point. When I say continuing I'm not saying about the two little buildings you're talking about today because we understand that. We're only talking when you come back for the main building. I have to agree with my Board members at that point it should be done.

J. Sweeney: I hear you.

G. Lake: And I think it's something that between now and the time when you get your clustering from the Town Board I think you and Mr. Bacon can work out the language to protect everybody.

A. Dulgarian: Are you suggesting we give them subdivision tonight and then they go for clustering? Are you suggesting that we take action tonight?

G. Lake: I was going to ask Mr. Bacon that. The Public Hearing is closed.

A. Dulgarian: I'm uncomfortable with that.

G. Lake: I don't know if we can and I was going to ask Mr. Bacon that. The Public Hearing is closed and that's out of the way. If they get their clustering approval then we come back

and then we can continue on with the subdivision. I'm not sure how that really works.

J. Bacon: I would say what you've done in the past. Have the applicant go before the Town Board and even if the Board doesn't officially act may they will get a signal what they're thinking is and looking at the minutes from this meeting to understand what your concerns were. There are a couple of things I wanted to say about the sidewalk and obviously a sidewalk district is the cleanest way to do it. If that doesn't happen the applicant will have it's obligation under the subdivision code to protect the safety of the residents. Right now you have a project that's about five percent but eventually you will reach one hundred percent and that is going to increase the traffic considerably so obviously there will be more foot traffic than there is now immediately adjacent to the site. I think that's one thing that the Board should take into consideration also. We have new zoning with landscaping and stormwater requirements. It's not that I don't think we can get there but there is work to do.

J. Sweeney: We will go back to the Town Board and communicate what we think we hear from you and see if we can finalize the clustering maybe with some conditions associated with that and maybe at the same time I'm going to encourage a sidewalk district. That is the absolute way to solve the problem. Everybody shares a portion of the burden.

G. Lake: That's fine and we have done that and it just hasn't taken hold.. You're welcome to do that. I think to proceed now, I can table you. You've heard the comments from the Board. Your Public Hearing is closed. In the meantime you can address the comments from the Board a little bit.

J. Sweeney: Short of the sidewalks I don't think any of the comments are problematical.

G. Lake: Right. I just think clean up the map showing the Board some of the stuff they talked about it won't be wasted work because once you get the other it will become part of it and showing that you can meet some of the new regulations.

J. Sweeney: Sure.

C. Najac: Is there any paperwork involved to get the sidewalk in across Route 211?

J. Sweeney: I'm sure there is. We had this verbal agreement under the Highway Law, yes.

C. Najac: If I could make a suggestion that you follow through with a permit because as we were led the other day the regulations are going to change on the width of the sidewalk Right now presently it's a five foot sidewalk and they're allowing you to drop to three feet.

J. Sweeney: We have to apply one way or the other.

A. Dulgarian: A couple of things to address. I agree what Mr. Hamilton said about looking at this in it's entirety and how the traffic is going to come from the previous space onto this project and how it affects lot #2 and #3. We want improvements be it curbing, striping or whatever and hopefully some type of curbing that actually directs traffic on to these sites when they come back so we can determine at what point that needs to be improved. When we typically have a site like this we require them to show snow storage and a lot of other things that are not on this. We need all that. The bank, lot #3 has required parking of eight and you show seventy four. We would never approve that if it was the other way around. Here's an opportunity to maybe lose some of that parking area and replace it with some landscaping to meet the new landscaping and lose some blacktop. I mean there is other work to be done on this site.

H. Ross: Also when you go back to the Town Board you should also discuss with them the mutuality agreement . . .

G. Lake: Go to the Town Board to get the commercial clustering approval. Do you waive the sixty two day time frame?

J. Sweeney: Yes.

MOTION to TABLE for further review made by H. Ross and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

3. PUBLIC HEARING 7:40 P.M. - EISELE - 3 LOT SUBDIVISION - Foster Road (29-1-16.2) #19-09

G. Lake: Public Hearing started at 8:25 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 in said Town on the 15th day of April, 2009 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Robert and Evelyn Eisele, 84 Foster Road, Middletown, New York 10941 for approval of a three lot subdivision, 84 Foster Road (29-1-16.2) under Section 249-19D 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.

S. Plass: My name is Susan Plass representing the applicant.

G. Lake: Just give us a short presentation and then I will go to the Public.

S. Plass: What we're proposing to do is a three lot residential subdivision on Foster Road on approximately twenty acres. One for the existing building and two building lots.

G. Lake: I will go through the Board.

A. Dulgarian: After.

H. Ross: After.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: After.

T. Hamilton: After.

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

MOTION to close this PUBLIC HEARING at 8:27 P.M. made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

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

S. Plass: Yes I do. Item #1. The trees. The entire site has trees on the site. There is one forty inch tree and a twenty inch tree among them.

G. Lake: Can she move it around a little bit?

D. McGoey: Yes.

S. Plass: I can try and swing it around that.

D. McGoey: That would be what I would propose.

S. Plass: We have the prevailing speed of thirty five miles an hour for site distance. The Highway Department, we've added the details on the plans. We didn't get any comments from the Fire Department.

D. McGoey: There were also comments from the Park Service.

S. Plass: Yes.

D. McGoey: Do you have any problems with any of those?

S. Plass: Well, I'm not sure. I haven't even gotten in touch with the applicant. I don't think the one foot vegetation buffer. I'm not sure about the stone wall.

D. McGoey: The Park Service is asking for a stone wall across the dirt road, etc. They're asking for quite a bit.

A. Dulgarian: How many trees?

D. McGoey: Within the road bed to include a combination of large predominately fast growing deciduous trees supplemented with shrubs to create a barrier for all types of vehicular access including terrain vehicles.

A. Dulgarian: How long of a stretch is that?

D. McGoey: It's probably only twelve feet wide.

A. Dulgarian: Oh, just the width of the road?

H. Ross: The wood road is largely impassible.

S. Plass: Yes.

G. Lake: Let me go through the Board.

A. Dulgarian: Nothing.

H. Ross: Do the best you can with the trees.

R. Carr: I have nothing.

W. Capozella: I have nothing.

C. Najac: It looks good.

T. Hamilton: Make sure we have the dimensions on the plan for the limits of disturbance.

D. McGoey: Okay.

T. Hamilton: How wide is the width of that driveway?

S. Plass: Twelve feet maybe.

D. McGoey: They're not planting the whole road.

S. Plass: It's not really clear. Isn't that Public land?

T. Hamilton: They don't want those vehicles in the parkland.

G. Lake: I don't have anything else.

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

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for a THREE LOT SUBDIVISION subject to all of Mr. McGoey's comments and this Board's comments made by H. Ross and seconded by A. Dulgarian.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

4. PUBLIC HEARING 7:45 P.M. - **CORSICANA BEDDING** - SITE PLAN/SPECIAL USE PERMIT (Manufacturing) - Ballard Road (60-1-120) #10-09

G. Lake: Public Hearing started at 8:35 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 in said Town on the 15th day of April, 2009 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Ballard Road Holding LLC, 10 Parsonage Road, Suite 300, Edison, New Jersey 08837 for approval of a Site Plan and Special Use Permit on tax lot 60-1-120 located on Ballard Road under Section 249-38 to 239-40 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.

S. Gaba: Good evening. My name is Steven Gaba. I'm the attorney for the development.

G. Lake: Give us a short description before I go to the Public.

S. Gaba: This particular application is a portion of the three lot subdivision. The property is the Wakefern facility on Ballard Road which was approved as a warehouse distribution facility. What we're doing is we're dividing the property into three lots, two of them lots #1 and #2 will have existing buildings on them. The third lot #3 will not be improved. In regard

to lot #1 we're proposing to add a light manufacturing component to the uses on the property. The light manufacturing would be for Corsicana Bedding. We have here with us Mr. Bates who can tell you more about the specifics of the project. That's a summary of the project.

G. Lake: Okay.

J. Bates: My name is Justin Bates. Lot #1 which has the smaller building on the lot we will divide that into two users. The lower half of the building that Corsicana Bedding will occupy about eighty five thousand square feet and that will be a light manufacturing use. The top user of the building remains a little over eighty three thousand square feet and we're looking at that for a warehouse use. Parking is basically going to be re-striping of the existing pavement that's out there. We've allotted fifty spaces for both users. We are over and above for the warehouse use.

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

A. Dulgarian: I reserve my right to comment after.

H. Ross: After.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: After.

T. Hamilton: After.

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

MOTION to close this PUBLIC HEARING at 8:39 P.M. made by C. Najac and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

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

J. Bates: Yes.

G. Lake: Are you going to have any problems with any of them?

D. McGoey: How does the warehouse portion (not clear)? Is there another ramp on that end?

J. Bates: Yes.

D. McGoey: Do you have a problem showing those?

J. Bates: No.

G. Lake: The last time we talked a little bit about the stormwater, they were going to put some boxes in?

D. McGoey: Yes. As part of the subdivision approval there are details of the lids for collecting grease in the catch basins.

G. Lake: Are you satisfied with that?

D. McGoey: Yes.

G. Lake: That's going to do the job?

D. McGoey: Yes.

T. Hamilton: For the stormwater?

D. McGoey: Yes, for the stormwater. The catch basins will have a hooded insert for the grease trap.

T. Hamilton: What about the amount of water?

D. McGoey: That's not changing. Until they come back with another development that's when the new regulations kick in on the stormwater. The new regulations are on subdivisions.

T. Hamilton: Shouldn't we ask for it now?

D. McGoey: We asked them to do some work on the stormwater treatment .

T. Hamilton: I was under the understanding that the impervious part would tie into the stormwater. Something for them to do to meet the requirements.

J. Bates: We're not changing the impervious surface.

T. Hamilton: The new regulations (not clear).

G. Lake: It's already there. I thought when we went to these manhole lids for the oil traps.

T. Hamilton: But this new building on that one lot doesn't exist now so they should make it work.

D. McGoey: Lot #3 is vacant except for parking. They have to meet the impervious coverage.

T. Hamilton: Okay. I knew it was in there somewhere.

G. Lake: Mr. Dulgarian?

A. Dulgarian: It's a reasonable use, low impact.

H. Ross: I have nothing.

R. Carr: I have nothing.

W. Capozella: Nothing.

C. Najac: Nothing.

T. Hamilton: Nothing else.

G. Lake: I have nothing to add.

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 C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

5. **PANNATONI** - 3 LOT SUBDIVISION - 260-290 Ballard Road (60-1-120) #66-08

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

S. Gaba: My name is Steven Gaba representing the applicant. We received Preliminary approval on this in January. We have the cluster approval from the Town Board. What we're here for at this point is approval.

G. Lake: Let me go through the Board.

A. Dulgarian: Nothing.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

C. Najac: (Not able to hear).

J. Bates: When we come back for lot #3 . . .

T. Hamilton: Nothing.

G. Lake: I have nothing.

J. Bacon: I have a question on where the catch basin on lot #2..

J. Bates: There's one on lot #1 and one on lot #2.

J. Bacon: On the setback line?

J. Bates: Showed to Mr. Bacon.

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 T. Hamilton.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for waiver of impervious surface made by H. Ross and seconded by W. Capozella.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for THREE LOT SUBDIVISION subject to all of Mr. McGoey's comments and this Board's comments made by T. Hamilton and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

6. **HASBROUCK** - 2 LOT SUBDIVISION - Silver Lake Scotchtown Road
(24-1-23.23) #09-09

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

D. Yanosh: My name is Dan Yanosh representing the applicant.

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

D. Yanosh: This is a 1.74 acre parcel of land in the R-2 zone on Silver Lake Scotchtown Road. We propose just to cut this one lot off, lot #1 the remaining property lot #2 being 33.79 acres. This was formerly before you a couple of months ago or a year ago for a lot line change. The property was going to be transferred to the adjoining property. It never got transferred and no deeds were filed. Right now it's still a part of the whole parcel. All we're doing now is cutting that one lot off for a single family house.

G. Lake: Okay. I think my question for you before we tackle Mr. McGoey's comments, the

other two lots were they out of the same parcel or out of another parcel?

D. Yanosh: Yes.

G. Lake: Mr. McGoey, Mr. Bacon, wouldn't this be considered a three lot subdivision then and wouldn't it require a Public Hearing?

D. McGoey: Yes.

G. Lake: That's what I thought. I don't want to screw it up. I think we're going to have to schedule you for a Public Hearing because it was taken out of the major parcel within the last ten years. Mr. McGoey's comments, are you going to have any problem with any of them?

D. Yanosh: No.

G. Lake: Let me go through the Board.

A. Dulgarian: I have nothing additional.

H. Ross: No. I have nothing additional other than the comments about protecting the wetlands.

R. Carr: I have no problem.

W. Capozella: Nothing.

C. Najac: Nothing.

T. Hamilton: Nothing.

G. Lake: The only thing I'm going to mention on this parcel is what's going to happen with the remainder of it? It's a pretty nice parcel of land and I think at some point let's get that and I think it's to protect everybody we're going to have to look at the whole parcel to decide what if anything will be done with it. That would be good planning.

D. Yanosh: From what I've been told is in the back of lot #1 I think there is a pond back there. Really this area in the back probably won't be available for use. All the road frontage is along Silver Lake Scotchtown Road. We do have an access out towards (not clear) also. There is access into that back portion also.

G. Lake: The reason I brought it up is because we may just want to look at the complete parcel. We can put you on for May 20, 2009.

MOTION to schedule a PUBLIC HEARING for May 20, 2009 made by W. Capozella and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

7. **BRONNER** - LOT LINE CHANGE - 747 Goshen Turnpike (7-1-27 & 31.2) #12-09

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

D. Yanosh: My name is Dan Yanosh representing the applicant.

G. Lake: Go ahead.

D. Yanosh: The applicant's own this existing 2.68 acre parcel of land on Goshen Turnpike. They built the house a couple of years ago and when they put the driveway in they put it on another piece of his own property and the setbacks all meet after the line change.

G. Lake: Do you have any problems with any of Mr. McGoey's comments?

D. Yanosh: I just set the pins today and the concrete monuments are in the front of the property.

G. Lake: I will go through the Board.

A. Dulgarian: No impacts and no problems.

H. Ross: Same for me.

R. Carr: I have no problem.

W. Capozella: Nothing.

C. Najac: Nothing.

T. Hamilton: Nothing.

G. Lake: I also have nothing to add.

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.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

8. **BLOCK/MONTANA** - LOT LINE CHANGE - Goshen Turnpike (1-1-54) #11-09

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

G. Rich: My name is Gary Rich representing the applicants.

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

G. Rich: No. The comment on parcel "B". The only reason why I didn't take twenty five feet is because the ownership is still in question. Two deeds are claiming ownership to that parcel and that's why I didn't do it.

D. McGoey: On the opposite side of the road?

G. Rich: Yes.

J. Bacon: I would get that checked out.

G. Rich: Had a discussion with Mr. Bacon. That was the only problem I have.

G. Lake: I will go through the Board.

A. Dulgarian: I have nothing.

H. Ross: Nothing.

R. Carr: I have nothing.

W. Capozella: Nothing.

C. Najac: No problem.

T. Hamilton: Nothing.

G. Lake: I have nothing to add.

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 R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

9. **SIMS METAL** (Weinert's) - SITE PLAN REVISION - 820-826 Route 211 East
(41-1-82) #71-09

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

L. Potter: My name is Lorraine Potter with Lanc & Tully representing the applicant.

G. Lake: Go ahead.

L. Potter: We're here for an amended Site Plan. Currently the applicant has approval to run a C & D which he has a permit for from the New York State Department of Environmental Conservation. However, at this time he wishes not to operate the C & D and would like to use that for metals and cars. The other modifications to the plan would be the elimination of the gated concrete. I'm going to show you what was previously there so you will understand.

G. Lake: Why don't you turn that this way a little bit so we will be able to see the whole thing.

L. Potter: Previously this was the proposed building for the C & D. This is the building that they want to use for scrap metal and cars.

A. Dulgarian: Is that existing?

L. Potter: No. This was a proposed building and has not been built yet. Previously there was a sixty foot by sixty foot roofed area located at the rear of the existing garage. They no longer want to do that. There was also an improved warehouse building that they were going to use for maintenance. That is no longer going to be used or built. Everything else on the site will remain as is. In addition the C & D had to be gated according to the New York State Department of Environmental Conservation. That will no longer be done. With the elimination of this roof, this building and the barricade the site would remain the same.

G. Lake: Now, the C & D that's gone now?

L. Potter: When they build the building it will be built just as though it would have been for the C & D with all the amenities. If in the future they wish to do that they would have to come back to the Board for an amended Site Plan to operate a C & D. They do have the permit from the Department of Environmental Conservation that would allow them to do that.

G. Lake: I'm assuming they're going to just (not clear).

L. Potter: Correct. It will be a contained area out of the weather

G. Lake: Mr. McGoey's comments, do you have anything on any of them?

L. Potter: No.

G. Lake: Mr. McGoey, do you have anything?

D. McGoey: No I don't.

G. Lake: I will go through the Board.

A. Dulgarian: It appears to be a less intensive use than what was previously approved.

H. Ross: I had a question about drains.

L. Potter: Everything will be collected and maintained.

R. Carr: I have nothing.

W. Capozella: Nothing.

C. Najac: The permit for the C & D?

L. Potter: The entire site is permitted by the Department of Environmental Conservation.

T. Hamilton: The permit for the autos, is it existing?

Unidentified Person: It gets renewed annually.

T. Hamilton: How long is that good for?

Unidentified Person: It gets renewed bi-annually.

T. Hamilton: Are we going to pile up the cars again?

Unidentified Person: Basically forty eights hours on site and the metal is shipped out the next day or the day after.

T. Hamilton: That's all I have.

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES