

TOWN OF WALLKILL PLANNING BOARD

MEETING

APRIL 18, 2007

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

MEMBERS ABSENT: W. Capozella

OTHERS PRESENT: J. Bacon, D. McGoey

1. PUBLIC INFORMATIONAL HEARING - 7:30 P.M. - PROPOSED  
COMPREHENSIVE ZONING AMENDMENTS FOR 2007

G. Lake: Public Informational Hearing started at 7:34 P.M.

M. Hunt: The Proposed Comprehensive Zoning Amendments for 2007 for a Local Law 249 of the Code of the Town of Wallkill, County of Orange, for new zoning districts and amendments pursuant to the provisions of the Zoning Code in order to implement the Town of Wallkill 2005 Comprehensive Plan.

G. Lake: What this is, as most people realize, the Town of Wallkill in the last two, two and a half years or probably more than that now, has been amending the Master Plan and this is now the zoning to go along with new Master Plan that we have. We do have a representative from Behan Associates who was probably the Lead Planning Agency on this. It's quite extensive with a couple of hearings about it already on the Town Board. I will open it up to the Board and then I will open it up for any comments. We will take your comments and I will go through the Board again and we will move on to the next on. First, let me go through the Board.

A. Dulgarian: No comments now, I will address them in writing.

H. Ross: Nothing.

R. Carr: I will wait.

C. Najac: I will wait.

T. Hamilton: Wait

G. Lake: Is there anyone from the Public who wishes to comment on this? It's several pages

long. Do you want to give us some highlights of it in case somebody is interested in it? I know it's quite long.

M. Allen: My name is Michael Allen from Behan Planning Associates. Just a summary of the major changes in the zoning was that we removed some of the areas which were industrial and re-zoned them to be basically a Town Center, Office and Research, Enterprise which is essentially, carries the same thing as an industrial zone was reduced in size, Enterprise Light, which is for lighter industrial not as heavy industrial. The existing Highway Commercial stays the same. We also included a new zone called Residential Agricultural Low Density. Basically what this does is to allow the Town to be more specific. It gave them more specific zones in certain areas of the Town. It reduced the size of some of the industrial areas. It's hard to do that without a map unfortunately. I don't know if anyone has any particular questions about this.

C. Strommer: Will that be available?

M. Allen: I believe there are copies of it up here right now and it's also on the Town web site that will take you to the proposed zoning changes and also to the Draft Environmental Impact Statement which basically tried to outline individual changes to the zoning and try to specify what some of the impacts you might expect. There's also a zoning map on the internet that you can look at. You should be able to zoom in certain areas and check out like your particular neighborhood in a little bit more detail than any paper map of this size are very hard to read.

C. Strommer: My name is Christine Strommer, the owner of Fluffy Pups. I just want to know when you plan on adopting these changes?

G. Lake: What we do, this is probably like the second or third information hearing but this is our first. Basically what we will do now is take any comments somebody may or may not have. The Planning Board has a whole will send their comments in and then we will recommend to the Town Board if we think they're good, bad, indifferent. The Town Board are actually the ones that would approve the zone changes. So, all we're doing tonight is getting any Public feelings and then we will make our recommendations to the Town Board. When that is going to happen, I know that they will be doing something on the 26<sup>th</sup>, I think it is of this. I think that is also an Informational Hearing. I really can't remember.

Unidentified Person: For the Public?

G. Lake: That's for the Public and really for the people to get to and ask about it.

C. Strommer: My concern is with Fluffy Pups because my concern because in the documentation there's nothing for veterinary hospitals or kennels. A lot of times dog grooming and dog boarding and kenneling goes hand in hand. My business is doing very well and I may want to expand in the future and I want to know if I'm ever going to be prevented from moving forward. That's something that isn't mentioned.

G. Lake: Thank you and surely we will look at that also.

J. Wolfe: I'm Jim Wolfe and President of the Wallkill Cemetery Association. The Wallkill Cemetery opposes this zoning change because it ignores and therefore violates the Town and Cemetery Protection Law. That's number one. Number two, it's contrary to the 2005 Master Plan. It's totally contrary to that plan. Number three, it's obvious that therefore in a legal attempt to settle a no lawsuit with Tetz. Number four, this zoning change on Cemetery Road is meant to benefit one entity and that's Tetz. And for that reason, it's illegal because of spot zoning. This is the way we feel the Board is very adamant about this and we're very concerned about the zoning change and what it's going to do to the cemetery and to that whole zone. They're trying to make it into a heavier industrial zone than it was meant to be in the 2005 Master Plan intended it to be and we're totally opposed to it. Thank you.

G. Lake: Anybody else? If not, . . .

**MOTION to close this PUBLIC INFORMATIONAL HEARING at 7:44 P.M. made by R. Carr and seconded by T. Hamilton.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

G. Lake: I will go through the Board one more time.

A. Dulgarian: No, not today.

H. Ross: No comments tonight. I will do it in writing.

R. Carr: I have nothing.

C. Najac: Nothing now.

T. Hamilton: Nothing.

2. PUBLIC INFORMATIONAL HEARING - 7:35 P.M. - PROPOSED AMENDMENT FOR SETTING TERMS OF SERVICE FOR TOWN PLANNING BOARD AND ZONING BOARD OF APPEALS MEMBERS

G. Lake: Public Informational Hearing started at 7:45 P.M. The next informational hearing is on setting of the term limits for the Planning Board and the Zoning Board of Appeals.

M. Hunt: Public Informational Hearing on a Local Law for proposed amendment for setting terms of service for Town Planning Board and Zoning Board of Appeals members.

G. Lake: What that is at present, the present Planning Board term for members is seven years and we are appointed on a stagger, otherwise one member comes up and so forth. The Zoning Board of Appeals, I believe is a five year term and I believe the same goes for them once a year one comes up and then I believe two may come up. I'm not that familiar with it. What the Town Board is proposing at this time is to knock that down from seven for us to three and from five to three for the Zoning Board of Appeals. I will go through the Board and then I will to go the Public.

A. Dulgarian: After the public.

H. Ross: After the public.

R. Carr: Nothing now.

C. Najac: After.

T. Hamilton: After.

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

**MOTION to close this PUBLIC INFORMATIONAL HEARING at 7:48 P.M. made by A. Dulgarian and seconded by H. Ross.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

G. Lake: I will go through the Board.

A. Dulgarian: Just want to state that I'm in agreement with David Church's letter dated April 10<sup>th</sup> and reserve any comments in writing at a later date.

H. Ross: I guess I will state for the record that I commented to the Town Board and read the contents of David Church's letter and that I concur that the Board's are by design to be independent to avoid interference and political pressure. Simply put, the difference between a three year term and a seven year term in my opinion means that the Town Board which serves a two year term cycle should not have to wait an amount of time before trying to get Planning Board members sit their way and now they have to wait a long time to get that spot.

R. Carr: No, other than like Mr. Ross, I have made my comments. I'm not in favor of this.

C. Najac: I just want to state that I agree with Mr. Church's letter.

T. Hamilton: I also agree with David Church's letter. One other fact in regard to the seven year existing terms under State Regulations state that they're staggered terms, meaning one per year and to go to a three year term and you have seven members, how do you stagger it?

Or even a five member board going two years, how do you stagger it?

G. Lake: David Church happens to be the Orange County Commissioner of Planning and is well respected and obviously I happen to agree with all my fellow Board members.

3. PUBLIC INFORMATIONAL HEARING - 7:40 P.M. - PROPOSED AMENDMENT FOR SETTING A MAXIMUM TIME FOR CONSTRUCTION OF PROJECTS RECEIVING PLANNING BOARD APPROVAL

G. Lake: Public Informational Hearing started at 7:49 P.M. This one is on the maximum length of time for a project before it loses the approvals.

M. Hunt: Public Informational Hearing on a Local Law amending the Zoning Code of the Town of Wallkill, County of Orange, for the maximum time for construction of projects receiving Planning Board Final Approval.

G. Lake: I will go through the Board.

A. Dulgarian: After.

H. Ross: After, please.

R. Carr: I will wait.

C. Najac: After.

T. Hamilton: After.

G. Lake: Is there anyone from the Public who wishes to comment on this? Basically what this does is what they're saying is that the project is approved. One of the questions that I have is if it's approved tonight, is has a certain length of time where it has to be built. Examples are like twenty (not clear) past twenty four months a Site Plan for twenty units and all commercial mixed use would have only thirty six months. One of my big questions would be from the time of approval tonight or is it the time of approval when the maps are signed. There is a vast difference in that. That could affect an awful lot of people. That's what that law is about basically. Is there anybody that wants to speak on this or not?

R. J. Smith: As I read this, as you approve projects, some projects are much larger such as the

Fairways and the developer goes in and installs all the infrastructure and the market it is the market that determines how fast a project is built, not something like twenty four months or thirty six months. What's going to happen is they will be coming back to you with all the infrastructure in and consuming more of your time to try to do a re-approval because of the zoning change. I think it's going to be something that will cause more problems to solve and thirty six months . . .

G. Lake: Isn't a long time to build.

R. J. Smith: Not for sizable projects and if the market conditions change they just won't do the project.

G. Lake: There is a clause where you can go to the Town Board and get a hardship extension supposedly. You know, your hardship and my hardship might make a difference. I understand that. I don't particularly back this law at all but I will forward my comments.

R. J. Smith: If historically the project has not started then the approvals can be withdrawn but once the project has started that means the time frame . . . Thank you.

G. Lake: Anybody else?

**MOTION to close this INFORMATIONAL PUBLIC HEARING at 7:53 P.M. made by R. Carr and seconded by C. Najac.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

G. Lake: Mr. Dulgarian?

A. Dulgarian: Again, I reserve my comments in writing at a future date but I have one question for Mr. McGoey. I guess I would be correct with Mr. McGoey on this one. How does that affect in phasing? In other words, if a phase is completed it just doesn't matter and the project has to be done. So, we can no longer phase something over a two year period.

D. McGoey: The phasing would start the time frame.

A. Dulgarian: I will respond in writing.

G. Lake: I'm going to follow up on that, not to put you on the spot because I'm not sure but the reason people phase is because they think it's going to take them longer and they don't want to commit to a time frame depending upon the size of the project. Any idea how they will work that in?

D. McGoey: I don't know. One thing you should remember though most of the phasing we get is on subdivisions. There's a Local Law for that.

G. Lake: Yes. Phasing, if a guy comes in with a subdivision and phases it and then files it, then what do we do?

D. McGoey: Well, they can file it and then the infrastructure would have to be approved.

G. Lake: I just think it's going to be pretty tricky.

H. Ross: I agree with you Mr. Lake. It's going to be tricky. I think the one thing I like about this and what I don't like about it, in as much as this is an attempt to weed out the bad laws of approvals that were lost to public memory from the moment they were made which used to be much bigger problems than now but I agree. If the market governs here and things speed up and things slow down and we have big projects in the Town of Wallkill that have gone forward after receiving perhaps not Site Plan but Subdivision Approval so far back everybody, as you know, lost track and or forgotten. I like the fact that the Planning Board (Not clear) under extended animation for a variety of plans and then people get surprises. I know that in the past there were plans that were no longer approve-able under environmental laws that we had and we re-engaged the process we found our hands tied. I would not like this to occur again. Other than that, I agree with Mr. Lake that there a lot of problems. I do note that you said it is determined by Site Plan and not Subdivision. By that time people should know that when they come before this Board and they get approval they should be ready to go to work. Thank you.

R. Carr: I agree with the intent of the law but in ten years from now when things may be different. At the same time when you look at the two projects that started. One was over on Goshen Turnpike and I believe that had been approved in the early 1990's. It was, I think, a townhouse approval. We were advised by our Attorney at the time that, I believe it was New York State Appellate Court ruling that had said that if any material construction had been done the Town could not withhold what it had approved. I believe we were provided with a State Law. One, I would have a question for Mr. Bacon, can the Town pass a law which where even if they have cleared and put a base, not actually put the road in but put a base grade and put things in the road if that would be considered sufficient to meet the requirements for the material work having been done? One, would be could this law, I mean is it legal (not clear). The other case was the one where they actually came back and got approval and that was on Silver Lake Scotchtown Road. But, when I was thinking about the townhouse, the other legal question I would have on a townhouse development, is that a . . . The difference between a Subdivision and a Site Plan. The Subdivision, I would assume only approves the site for the subdivision. That property is now subdivided whether they build on it or not. So, if we give an approval for, in that case, a fee simple townhouse, is that technically a subdivision?

J. Bacon: Like, in the MKA project?

R. Carr: If it has a subdivision, does it have certain rights as having been granted, I don't know if it gets filed. The County may constitute something different than Site Plan approval.

J. Bacon: That should be clarified by them and how do you address a Site Plan and a Subdivision. The other question goes back to vested rights and how much the project has commenced construction and whether or not the (not clear). If you haven't approved any of the other units that might be a different situation.

R. Carr: In that particular case, our Attorney at the time gave us the language that any material construction. And then following that up and I won't go through all of it but like the project down the road, Tower Apartments where it could get tricky where you start a project after some of the apartments are up but they haven't completed say the clubhouse or the recreation center, all the infrastructure requirements are done. Is that enough? If you could get that information to us.

J. Bacon: I mean to do that

R. Carr: I forgot the name of the project.

D. McGoey: Oak Hill.

C. Najac: I agree with the intent of the law but I also agree with Mr. Lake and Mr. Carr. This will be creating a rough road with the site and the major improvements to be put in the ground. That is really not going to cut it. We need to work out (not clear) so that the developer, for instance has a forty lot subdivision and he's on house thirty eight. On the other hand if they've only built one and the time frame is up then we need the correct wording to handle it properly.

T. Hamilton: Back on that same thing, Mr. McGoey had mentioned on a subdivision but we have projects here that get subdivision and also get Site Plan approved for the whole project and then come in and phase it, but yet the Site Plan was approved and so forth so, what happens now? Will the Site Plan be affected in the bigger projects? It doesn't state what the exceptions are to get re-approval. We may approve more than one phase, how do we handle it then? I don't know how it's going to work.

G. Lake: Mr. Bacon, my only other thing is between now and Monday when we meet that we get a response. I think if you could find any place else that has this type of law because I really can see a lot people getting bogged down with this. That's all I have to say.

4. PUBLIC INFORMATIONAL HEARING - 7:45 P.M. - PROPOSED AMENDMENT TO MAINTAIN ROADWAYS OFFERED FOR DEDICATION IN THE TOWN OF WALLKILL

G. Lake: Public Informational Hearing started at 8:07 P.M. This is on the maintenance of roadways offered for dedication in the Town of Wallkill. Basically what this is, it's going to be where they can bond you up until trying to take the road over. What happens is we have projects that are built out with water problems and maybe the bond wasn't enough so, I think they're making an attempt to change that. Let me go through the Board.

A. Dulgarian: After.

H. Ross: After, please.

R. Carr: I will wait.

C. Najac: After.

T. Hamilton: After.

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

**MOTION to close this PUBLIC INFORMATIONAL HEARING at 8:09 P.M. made by T. Hamilton and seconded by R. Carr.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

G. Lake: I will go back through the Board.

A. Dulgarian: Nothing at this time. I will address it in writing.

H. Ross: Likewise. Thank you.

R. Carr: No, Just Mr. McGoey's comments on the bonding.

C. Najac: Just to make sure . . .

T. Hamilton: Yes. I think we need input from our Engineer, the Highway Superintendent and so forth to really get into the bonding of the road.

G. Lake: Again, this is really a housecleaning change that they want to do to ensure that people who buys new homes on roads that aren't dedicated.

5. PUBLIC HEARING 7:50 P.M. - DECKER RESTORATION - SITE PLAN/SPECIAL USE PERMIT - 307 Bloomingburg Road (3-1-33.1) #109-05

G. Lake: Public Hearing started at 8:09 P.M. M. Hunt read the Public Hearing Notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 99 Tower Drive, Building A, Middletown, New York 10941 in said Town on the 18<sup>th</sup> day of April, 2007 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Decker Restoration, LLC for approval of a Site Plan/Special Use Permit, 307 Bloomingburg Road under Section 82 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.

T. Gottlieb: My name is Timothy Gottlieb.

G. Lake: Just, since you've been here last, I know you've been in and out a lot. Just bring the Board up to speed on what you've done.

T. Gottlieb: Okay. Basically we've revised the plans according to Mr. McGoey's comments which were minor. It's giving you a landscaping plan.

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

A. Dulgarian: After please.

H. Ross: After please.

R. Carr: I will wait.

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 8:11 P.M. made by A. Dulgarian and**

**seconded by C. Najac.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

G. Lake: Do you have Mr. McGoey's comments? Basically, there's only three of them there.

T. Gottlieb: I have the comments.

G. Lake: Do you want to go over them?

T. Gottlieb: Yes. Regarding the removal of the building since the Board would like to have it noted on the plan. We have no problem with that. We went over that with Mr. McGoey.

G. Lake: That's to remove the building when and if you vacate the premises..

T. Gottlieb: Right.

G. Lake: What do you guys feel about that?

T. Hamilton: I think we kind of mentioned that when the applicant appeared before us earlier to have some kind of notation that if they left the site to remove the building.

G. Lake: I think of the project just on the other side of the highway a bit that started out with the same thing and now they're full fledged occupied homes, I think.

T. Hamilton: Yes. I think that's why these will not have any utilities and anything else so they cannot convert like what happened on the other side of the highway.

T. Gottlieb: You did get a landscaping plan. The final item was whether the building would be on blocks or a slab. Our intention was to put it on a slab. And, we're not proposing a septic system for this site. It will be located in the office.

T. Hamilton: I've been in other areas and some of them are not even electrified. They are just put together with no utilities at all.

T. Gottlieb: I believe we will be putting in electric.

A. Dulgarian: I'm for the electric. I think that they should be able to have electric. I mean it starts getting dark at five o'clock they have to be able to show it. I'm pretty adamant about no water, no plumbing. I also think that the entire site should be returned back to pre-construction conditions, meaning that the slab or block foundation should be removed also. As far as the landscaping, it looks pretty minimal but I will let Mr. McGoey sign off on that. My only other question is I thought these originally were going to face the highway. They're not, and are facing the parking lot or does that gable end up front?

T. Gottlieb: The gable end is the front.

A. Dulgarian: So, it is facing the highway?

T. Gottlieb: Yes.

A. Dulgarian: Mr. Lake, I have nothing additional.

H. Ross: I'm glad the applicant is considering a slab instead of blocks and for the complete removal and restoration of the site. The landscaping plan seems adequate to me but what do I know. I think the electric is a good idea. He should have it. You can't show them in the dark, that's for sure. No other utilities.

R. Carr: I have nothing additional.

C. Najac: Nothing additional.

T. Hamilton: The only main thing is as long as the Building Department is satisfied on how they're set and so forth.

G. Lake: Did you say it would be on a slab or on blocks?

T. Gottlieb: Our preference is for a slab.

G. Lake: That, I think, would be my question.

T. Gottlieb: The question did come up at the last meeting as far as setting it on blocks.

T. Hamilton: I agree.

G. Lake: Then I have no further comments either.

**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 C. Najac.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

**MOTION for SITE PLAN/SPECIAL USE PERMIT subject to all of Mr. McGoey's comments and this Board's comments made by T. Hamilton and seconded by H. Ross.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

6. PUBLIC HEARING 7:55 P.M. - **BOWENS AUTOMOTIVE** - SITE PLAN/SPECIAL USE PERMIT - 766 Bloomingburg Road (3-1-73) #98-06

G. Lake: Public Hearing started at 8:17 P.M. M. Hunt read the Public Hearing Notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 99 Tower Drive, Building A, Middletown, New York 10941 in said Town on the 18<sup>th</sup> day of April, 2007 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Rich Bowens, 114 Last Road, Middletown, New York, 10940 for the approval of utility service/automotive repair building on York Road approximately 800 feet south of County Route #76, further identified as Tax Map parcel Section 3, Block 1, Lot 73, under Section 249-28 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 mailings, do we have them?

J. Nosek: Yes.

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

J. Nosek: My name is John Nosek with Roger Ferris Engineering & Surveying.

G. Lake: Just give us a brief update.

J. Nosek: This is a proposed commercial site on 2.1 acres. We're looking to build an approximately six thousand five hundred square foot building to service a public utility service establishment as well as automotive repair. We've laid out on the plan sections of the building approximately twelve hundred square feet for the office, thirty three seven hundred square feet for the warehouse and a storage area and fifteen hundred square feet service bay for automotive repair. This application was before the Board a number of years ago and was

granted approval for an automotive repair station. That application was not pursued and the project was never built so we did come back with a fairly significantly smaller proposal for this Board. I believe the previous application called for a ten thousand five hundred square foot building which was approved. We're looking to do a six thousand five hundred square foot building, much smaller. We have the parking associated with the number of spaces required by the Town Code. We are proposing to pave a portion which will be in the portion of the area of the proposed parking spaces. This building will be serviced by a well and sub-surface septic system. Those utilities have been reviewed and approved by the Town Engineer. As far as drainage goes, we're going to be collecting all the site runoff to a series of catch basins. The catch basins will collect the drainage. We met with the Highway Superintendent. They preferred us to take the drainage in a southerly direction down York Road to the existing thirty inch culvert and stream that carries the water pretty much in open woodland. So, we complied with their requests and we also agreed that we would just put the utilities in and not go with the previous proposal we had by doing a combined effort with the Town in hopes that we might be able to proceed with the original approval approved by the Board.

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

A. Dulgarian: After.

H. Ross: After please.

R. Carr: I will wait.

C. Najac: After.

T. Hamilton: After.

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

**MOTION to close this PUBLIC HEARING at 8:21 P.M. made by R. Carr and seconded by C. Najac.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

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

J. Nosek: Yes. The first comment is regarding the Highway Superintendent. Like I said, we did meet out there with Mr. Lippert and his associate and the Highway Superintendent is satisfied with our proposal if he hasn't already seen it to carry the drainage in the southerly direction down York Road. I'm certain that he's okay with it. We had a pretty clear agreement out there how we were going to handle this. I have no problem with giving him an extra copy of the plan.

G. Lake: Okay. Let's get back to that.

J. Nosek: Sure.

G. Lake: When did you meet with him on that?

J. Nosek: We met with him, I don't know the exact date but I think probably about three weeks ago. His comment regarding the provisions for the pavement detail. We did respond to do it to sub-grade. The owner is going to maintain, obviously, all the utilities on site. The Town will have to take care of the off-site improvements. So, we have no problem. They're pretty much detail changes which we can readily address.

D. McGoey: The big problem I have is the amount of disturbed area. I don't think you will be able to construct on that site and not disturb more than an area of the property. Disturbing more than an area of the property throws it into the Department of Environmental regulations and would need a storm management pond and treatment.

G. Lake: How do we . . . I think Mr. LaBruna made a comment with that respect also.

D. McGoey: He would have to reduce the size of site disturbance in some fashion or comply with the Department of Environmental Conservation regulations.

J. Nosek: We talked about the possibility of removing another space and bringing the dust free surface almost square with the back of the building which would be reduced by another and probably get us below eight tenths of an acre. I understand I will need to add some more feet beyond the limits of the septic and so forth to make it realistic for traffic to get in and out but even with removing this here, I'm confident that we can stay under the acre (not clear). You can see the whole site is a two acre site and I'm well below.

D. McGoey: I'm going to say you can't do it what I see now.

G. Lake: He doesn't show it.

D. McGoey: Yes. He doesn't show it.

G. Lake: We will go through the rest of Mr. McGoey's comments and we will come back to that.

D. McGoey: The other issues I think he can do.

G. Lake: As of right now though there seems to be doubt on what he's showing.

D. McGoey: Yes. Based on what I see on the plan right now, it will be more than an acre of disturbance.

G. Lake: Let me go through the Board.

A. Dulgarian: I have no problem with the project, the type, the location or anything like that. But, Mr. McGoey, is this going to . . .the stormwater off from this site is going to more than pre-development, correct?

D. McGoey: Right.

A. Dulgarian: How is that mitigated. I thought that wasn't allowed.

D. McGoey: Normally this is not allowed. If he could show that there are no downstream impacts to the body of water downstream to handle the flow. But he just discharging it onto somebody else's property.

J. Nosek: That would be the basis for re-routing our stormwater. We met with the Department of Public Works and they were all of the opinion that to take it the previous way

would have impacts to the adjoining property owners because there's a number of homes there as well as crossing over York Road and then going on to the pre-existing swale that's there now but this was definitely the safer way to go.

A. Dulgarian: I'm not doubting any of that but I'm not going to you a review that I'm not an expert with. I will just tell you Mr. Lake that my concerns are that the post-construction runoff is not greater than the pre-construction runoff. Other than that, I have no real concerns. I will let Mr. McGoey worry about that and he knows what he's looking for.

J. Nosek: I just wanted to touch on one point. When we had gone through the previous approval we didn't (not clear) the water pond. You will see the pipe is much greater. It did not have stormwater detention. It was our understanding that the Town's position was the same that because we were going to propose improvements within the Town to get the water to a point where it didn't impact anybody that it wouldn't, in fact, require a stormwater mitigation plan.

A. Dulgarian: Again, I'm not saying that you're going to need to. I don't recall what the previous approval was and if I was part of that Board at that time but I have another chance to look at it right now and that's the recommendation that I'm making to my Chairman and my Engineer.

H. Ross: Yes. The water comes from York Road, is it stopping on York Road?

J. Nosek: It's going to move through a series of catch basins and piping down York Road and it will hit a stream which is right behind the gravel mine there and would go under a thirty inch culvert and through a wooded area so we're really doing a pretty significant improvement to York Road in terms of storm drainage improvements. There's nothing there now. It just kind of runs along the road right now. We going to be channelizing it.

H. Ross: The storm drainage is downhill from the site near the Shawangunk Kill?

J. Nosek: I don't have the topography maps here with me but it's a fairly large stream that runs underneath York Road at that point and it may go to the Shawangunk Kill at that point. I'm not really sure.

H. Ross: I concur with Mr. McGoey. We want to be very sure that your site disturbance is

under an acre of disturbance.

J. Nosek: My only concern is, I understand the Board's concern. My own concern is Mr. Bowens is really anxious to try and proceed and I was wondering if we could agree to shorten what ever we think we need to do here. We would be comfortable with under an acre. I'm comfortable that I'm under an acre in terms of not having to comply with the stormwater SPEDES because of the size of the development and it's been specifically scaled down from the previous approval for that reason because of the amount of drainage for the stormwater pond and everything associated with it. We really scaled this project down. I would like you to agree to that because he's kind of anxious to proceed and he would really like to start building if possible. I can trim back the dustless surface and bring back that whole area you refer to in order to . . .

G. Lake: Let's just get the comments in. Let me go through the Board.

J. Bacon: Mr. Lake, now if the Board believes that this site needs to have post-construction runoff stay the same, you have a good reason to do that. You're not bound but because of conditions the stormwater needs to be handled.

G. Lake: Let me just get through the Board.

H. Ross: I do want to, automotive repair coming in and an engine block is sitting and it rains hard and we're not containing runoff and the Shawangunk Kill is right there, it's not right. I'm not saying that it is happening or could happen, the mere fact that it occurred I would want to make sure that we take measures to prevent it from happening and if you're agreeable to those kind of steps whatever it is to either satisfy Mr. McGoey.

R. Carr: Just a question because I really have no problem with the project outside of the stormwater. If there were a detention pond doesn't that also address the quality?

J. Nosek: Well, there are some ponds that have both stormwater retention and water quality combined.

R. Carr: But isn't that part of detention?

J. Nosek: No. It's only required when . . .

R. Carr: No, not that it's required but I had always heard that a detention pond and part of that is to first flush a lot of the contaminants from the imperious surface and the asphalt, the sediment flows out of it.

J. Nosek: When you exceed an acre, it's mandatory, yes.

R. Carr: And, is that part of the reason . . .

J. Nosek: Yes, if given the fact that this site is very narrow and small and we have very limited room to work with here that was the factor which we explained to Mr. Bowens that he was going to have scale down the project because I don't have the room for stormwater detention facilities. That was a whole basis for scaling down the project. Had I had room to do stormwater ponds and things of that sort, we have proposed the identical application previously before which was a much larger building but the site doesn't warrant a building of that size. So, that was the whole reason why we scaled the project down. I don't really have any room here to put in stormwater ponds. I have to be certain distances from my septic system and well and so forth.

R. Carr: I'm just trying to determine. You know, we're talking about a tenth of an acre and you mentioned one other thing. You said you were going to improve, that this would actually improve York Road. How significant is that?

J. Nosek: We're going to . . . If you look on sheet #2 and Mr. Bowens had proposed to this at his own expense to run three hundred sixteen feet of new piping and a series of catch basins within York Road to improve the drainage. Currently it's kind of like a side bank and it comes right to the edge of the pavement that he would be grading that out and making an improvement.

R. Carr: I guess I would have to say what everybody else has said. I'm not crazy about that driveway with the impervious surface just being dumped that close to the stream with no control on volumes or no control on the quality. However, it's that area of improvement I kind of have to go with Mr. McGoey. That would be my concern. I do know that road is pretty bad and does overflow right across but what are the impacts of that.

J. Nosek: Would the Board consider Conditional Approval subject to Mr. McGoey's acceptance?

G. Lake: Let's get through the Board and then we will talk about these things.

C. Najac: With all the amount of impervious surface, I would be concerned about it being an

automotive service and we have do something. I'm not going to go against our expert and we need a guarantee that whatever water comes off that lot is clean, etc.

T. Hamilton: And, on the stormwater granted the applicant's talking about upgrading the drainage and so forth along York Road but in the end of where it meets that road he is not only crossing onto somebody else's property with more stormwater runoff than what was there before. That's the find end. It's going onto somebody else's property off of his.

G. Lake: Mr. McGoey, the one big concern is you think it's more than a tenth of an acre?

D. McGoey: Yes.

G. Lake: You think it's too much as far as the stormwater management?

D. McGoey: The way the stormwater is presently. Back in March, I asked for the stormwater.

G. Lake: So, he has not provided you with that study?

D. McGoey: No.

G. Lake: Okay. Listen then. I think with the concerns that the Board has shown right now, I don't think I would have a problem if . . . I don't have a problem with the particular use. I think the problem is maybe we're short a little information that you're going to have to get to our experts. You're going to have to show on the map exactly what you're doing and that you're really disturbing less than an acre. At this time, and I don't think you have a lot to do but by the same token to shove the subject to or some kind of an approval and just deal with them without the Board being able to look at it I don't think it quite right either. I'm going to recommend that we table you. Your Public Hearing is closed and ask you to waive the sixty two days but we will get you in as soon as you get that information that we need. I don't believe there's a lot here to do and I don't believe the Board's against it but they want to be ensured that there is some kind of oil filtration. I've got to assume you have to have that put in the garage.

J. Nosek: We certainly can add an oil separator with no problem.

G. Lake: Maybe, even coming off your blacktop that might be the thing to do and then, of course, you would have to show us how you're going to maintain it. So, I think that's our best step right now. I don't think it's going to take you very long to satisfy the things you need to satisfy us. The other thing I do believe you really need to go back to the Highway

Superintendent and I will also see him so we are all on the same page with his comments between now and when you come back. So, I would say call in tomorrow. We will get you right back on as soon as possible.

J. Nosek: Okay.

G. Lake: First off, do you waive the sixty two day time frame?

J. Nosek: Yes.

**MOTION to TABLE for further review with applicant waiving the sixty two (62) day time frame made by C. Najac and seconded by H. Ross.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

7. **PHILLIPSBURG (Tetz)** - SITE PLAN/SPECIAL USE PERMIT - Extension to Conditional Final Approval - Cemetery Road (78-1-29) #35-03

G. Lake: This is an extension and please note that Mr. Bacon will excuse himself from any comments at this point. Your name for the record, please.

R. Stack: My name is Rosemary Stack representing E. Tetz & Sons.

G. Lake: Go ahead.

R. Stack: This is really a simple request for an extension of time on Site Plan Approval. We've been dealing very diligently with the Town Board in their attempt to get the Developer's Agreement which is part of the Conditional Final Approval. We started that process in November of 2005 and provided them with the Draft Developer's Agreement and it's taken an enormous amount of time. So, we're requesting an extension on the Site Plan and the Special Use Permit as well.

G. Lake: Yes. And, I've been following how many times you have met with our Town Board. I think the rest of the Board needs to know I also had a big contact with the County also. So, I really think a lot of draft's between the two municipalities trying to work out this Developer's Agreement. How much longer do you think?

R. Stack: From the last couple of meetings that we had that we hopefully have something in place in a couple of months but again, there's just really no guarantee. I said that last year and it didn't come forth. That's one of the reason's why we're here to ask you for another extension. We are hopeful, though, that it will be resolved in the next couple of months.

G. Lake: So, you're very close?

R. Stack: Very close.

G. Lake: Mr. McGoey, six months or a year?

D. McGoey: I would say six months. It should be resolved. I have no objections to a year. The last meeting we had was in January.

R. Stack: We just didn't want to be on the verge of a six month time frame. That's why we asked for a year.

G. Lake: I personally don't have a problem with one year. Let me go through the Board to see if they have any comments. Like I said I do know from following and talking to the other side of the hall that you have been there and everybody has been working on that.

A. Dulgarian: I don't believe the delay is self-inflicted and it's been common practice to give extensions.

H. Ross: I think they're entitled to it.

R. Carr: Nothing.

C. Najac: Nothing.

T. Hamilton: No problem.

**MOTION for ONE YEAR CONDITIONAL FINAL APPROVAL for them to continue working on the Developer's Agreement . . .**

T. Hamilton: On that, Mr. McGoey, are we doing Site Plan and Special Use? We have to do Conditional on both of them?

D. McGoey: You need both of them.

T. Hamilton: We need an extension for Conditional Site Plan and also for the Special Use Permit.

**MOTION for ONE YEAR CONDITIONAL FINAL APPROVAL for SITE PLAN made by T. Hamilton and seconded by H. Ross.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED.**

**MOTION for ONE YEAR CONDITIONAL FINAL APPROVAL for SPECIAL USE PERMIT made by H. Ross and seconded by R. Carr.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

8. **SAM'S CLUB (Gas Station)** - SITE PLAN/SPECIAL USE PERMIT - 300 North Galleria Drive (78-2-5.12) #18-05

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

G. Bergman: Good evening. For the record, my name is Gerald Bergman. I'm an Engineer with Clough Harbour Associates. We're here tonight to seek Final Approval for Site Plan for Sam's Club gas. We attended a March 12<sup>th</sup> work session with several Planning Board members and their consultant. We believe that the questions were answered at that work session and those that were not were entered afterwards and that we reached an agreement on the highway improvements. I've read Mr. McGoey's comment letter. I have no problem with the few items that are on there. Those items will be placed on the Site Plan. That's all I have to say.

G. Lake: Will you have L85 fuel?

G Bergman: We said we would look into that.

G. Lake: I already passed out that we would be re-visiting safety concerns that this Board

has. I think all the members. I don't know if they have any comments. I will go through the Board. I think we worked pretty hard on this.

A. Dulgarian: Come back to me.

H. Ross: I think that, I guess there's a lot of mitigation, I will say that.

R. Carr: I just want to address something that's come up recently. It was mentioned that the Town Master Plan provisions (not clear) and while that's true I don't think necessarily it envisioned through that for gas stations in malls and plazas. It's all been carved for a repair shop and everything else. Basically that's been my thing on it from the beginning that this isn't a great spot for a gas station. So, I just want to make that clear in going forward. However, I've always been on the fence about it because of the mitigation involved and it's considerable and the mitigation again. I do want it understood that I don't envision necessarily that any place that cars visit in any plaza parking lot I would not like this there. It's not an idea, my fear it's not an ideal place to put it however, the mitigation off-site (not clear). That's all I have to say.

C. Najac: My thoughts on that Mr. Lake for this particular area is going to be considered part of the Town Center which includes the ability to actually walk to. That's my reason for sidewalks. I'm not big on gas stations in malls or in the middle of a parking lot. I know I'm on the fence with this but it would alright with me if you put a sidewalk in so people can walk. You should put a sidewalk right down Galleria Drive.

T. Hamilton: I myself having a gas station in a parking lot. The draft that I was given on what was deleted on that, what was the reason for deleting off-site on the first paragraph and the other deletion was taken off the issuance of a Building Permit. I was not there. I don't know how many Board members were there.

G. Lake: I think . . . First off, the we did set that Public Hearing at a work session here that they attended. I think Mr. Ross was there, Clark you were sick. Who else was there Mr. Ross? Oh, Mr. Capozella was there. Mr. Capozella is in China tonight.

T. Hamilton: So, were these words taken off?

G. Lake: No language was discussed because it was a proposal made which was basically, I wanted to be sure that we had some way to re-visit the safety issues and they graciously agreed to that. At that point I turned over to Mr. Bacon as our Attorney and their Attorney to hash out the proper wording. I got the idea that I wanted it to sit and have them come back in

two years to make sure that, it was a safety factor. I got the legal terms for that and I had to look up to Mr. Bacon for that.

T. Hamilton: I was just questioning on in four years, about checking on it in two years, what happens if after they approach a year we find out we have problems? We have to wait two years before we can do anything, the way this is worded?

G. Lake: It was a number Mr. Hamilton and maybe they would agree sooner.

T. Hamilton: You know if we have problems beforehand why set and wait a few more years if we know there's a problem that exists earlier?

G. Lake: First, I had to pick a number someplace. First of all, the one year was signing the maps. I don't think in one year you would really see a true across the Board movements. Three years seemed to be a little quick to me so, I thought three years then by that time the dust should be settled for sure and we can get an accurate count of what is happening there. You know, we had a couple years go past and we can say these are actual numbers and they're not six month numbers or one year numbers but we have a couple or three years to work with.

J. Bacon: Mr. Hamilton, after the work session Mr. Lake asked me to see if Bernie Callas could come up with language and to look back at what the accident rates are how that's going to be corrected if it becomes a problem. So, they came up with this and Phil had a couple of changes that he suggested and he can explain why he wanted to make these changes. But, there's a couple of things that do have to be clarified if the Board goes in this direction. One, I understand that the existing baseline conditions haven't been done yet so that would have to be completed and cleared with the Board so that you have a baseline. The other on the first line where it says that the applicant and the Town Planning Board have agreed to perform, the responsibility to perform on the site (not clear).

T. Hamilton: On this, taking off the on-site on the first paragraph on the top of that page. As part of this project we were looking for some off-site mitigation because of turning radius and flow in and out of this project. Why do we want to take that out now which is part of the site?

J. Bacon: Phil will have to . . .

T. Hamilton: It was part of this project that we felt we needed to make this thing work for us. We have accidents and movements that don't work. Those should all be in there.

G. Lake: Just to maybe answer that question Mr. Hamilton a little bit. At the work session again, a lot of the focus wasn't on the off-site because I think the people that were there felt that we already handled those to the best of our ability here. The hangup for me at the time was the internal movements and the safety of the people getting around in the parking lot so maybe that's why that happened. Surely, I don't think we compromised any of the off-site improvements here. It's been a long, hard project. We were very honest from the beginning, the whole Board was but again I think everybody gave a lot and took a lot from one another in this final agreement.

A. Dulgarian: Yes, I hear Mr. Carr and Mr. Najac saying that they were on the fence on this. I can't remember a project that, to me, you can argue either side of it and probably be close to being right. What it boils down personally, for me, is that I have a problem with adding things after the fact. Every time we do another free standing building in an existing parking lot it always results in as though we did poor planning and it gives us usually the vehicle safety issues. That's one of my biggest concerns. Added to that I'm also afraid of the precedence this may set for other projects in the Town. I know we take everything on a case by case basis and review each project but if Wal-Mart comes in here and asks for basically the same thing and wants one in their lot, how do we have a leg to stand on going through all the safety things we're going through now. I know they're making a tremendous amount of mitigation, that's what makes it so difficult to say no to this but . . . We have a project that we are all so uncomfortable with and that we still have so many concerns with, that we're going to have them police themselves and keep an eye on it for us? If we have that many concerns how can we even let it go. Another thing, and I have just got to mention it is I was on the site after the last snow storm, a week after the last snow storm and the snow still was blocking passage there. I saw cars driving over eight to ten inch snow banks to get through the parking lot. If it can't be managed with the existing project how is it going to be managed with a bigger project? I mean, if I was coming before a Board like this I would have my house in order. Very disappointing. I'm a customer of Sam's Club and it's just very disappointing. To me, I guess it boils down to #1 safety on that site and #2 the precedence that we're going to set by allowing this. I mean, we denied K-Mart based on all these same things several years ago. I was hoping one of you guys could convince me either one way or the other but my own opinion is I'm going to vote no on this.

T. Hamilton: I didn't want to bring it up because I figured Mr. Dulgarian would. We were both visited the site at different times during the week and on weekends and stuff. I was over there the other day and we had the same problem. Going over at different times even when they weren't holidays that parking was extended over into the area where this gas station is supposed to go. They were not holiday weekends and so forth. That was one of the items

that we worried about getting in and out of that lot.

G. Lake: I think we worked pretty hard there the best we could. As far as setting a precedence, Mr. Dulgarian, Wal-Mart could come in tomorrow. I think all we have to do is find a parking spot.

A. Dulgarian: It could be somebody else.

G. Lake: I realize that. I think the reason we're here is to make these decisions on a case by case basis. I think the mitigation and re-visiting within three years, as you guys know, I was against it and I told them the very first day but I think they turned the corner on that for several reasons. We're short one member of the Board. That Board member is in China tonight. It's up to you if you want to wait for a full Board or I can call the vote.

P. Griely: If I could just state a few comments.

G. Lake: Yes. I know Mr. Capozella was at that meeting. I can't represent him.

P. Griely: At the work session meeting we've been working very hard with the Board. We went through alternate details of the off-site and attached the draft resolution. It's spelled out item by item. Everything off-site, on-site. One of the benefits that we had going for this property is that we have a location for this facility that's isolated within the parking area. You do have to look at each one of these on an individual basis. We've incorporated pedestrian walkways from the parking areas. So, we're actually dealing with things at the Sam's Club that will make that better for patrons of the store in terms of pedestrian walkways, landscaping and everything else. In terms of this particular approval resolution you kind of have to (not clear). I think we spent a lot of time on this including getting input from every member of this Board to get a plan that works, that really brings the issues right up front in terms of circulation, stacking, non-conflict of movements, truck movements. In addition to all the off-site improvements that were put as part of this project so, we already incorporated all the concerns that, Mr. Dulgarian's concerns that we're allowing something that could be not safe. We already incorporated all of that but we said, if you're still concerned we're going to do an after-study. I don't think there's ever been another project with the Town where you required this amount of detail. Your consultant went through at a very detailed prospectus, accidents, etc. It's very detail what we're going to do. So, it's kind of a safety net. If there was something that we missed as a group, not just the Board, we have kind a safety net built in to make sure that it's protected and it's addressed. I think that's really something that the Board . . .

G. Lake: Thank you. Let me . . .

A. Dulgarian: Can I have a say, Mr. Lake?

G. Lake: Sure. Go ahead.

A. Dulgarian: I just want to say. I appreciate everything the applicant and they're people have done to try and comply with what were looking for. Mr. Griely, I take everything you said as you being an expert, believe me. But, to me, it boils down to a couple of things and I'm not in perfect agreement with what you guys are doing. That's all.

G. Lake: Okay. Do you want to table it then?

G. Bergman: Yes we do.

G. Lake: Because, I really don't know when we're going to get you back on. We're getting close to the summer schedule.

G. Bergman: Yes, with only one meeting a month.

G. Lake: Right.

G. Bergman: It just for a vote. I assume we've said everything we're going to be saying. Can we get on the next meeting? It's just going to be for a vote.

G. Lake: May 2, 2007.

**MOTION to TABLE for further review and applicant will appear on the May 2, 2007 agenda for a vote made by H. Ross and seconded by A. Dulgarian.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

9. **COUNTRYSIDE MEADOWS** - 13 LOT SUBDIVISION (FINAL) - Shawangunk Road (3-1-23.2) #26-04

**Cancelled.**

10. **KORN** - 2 LOT SUBDIVISION - 60 Meyer Road (13-1-20.1) #99-06

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

G. Rich: My name is Gary Rich with Gary Rich Land Surveying for a minor two lot subdivision.

G. Lake: Go ahead. Tell us what you're doing. I know it's a subdivision but how much are you taking out and how much you're leaving on the original parcel?

G. Rich: We're leaving sixty nine acres. We're cutting out 4.3 acres out of the campground and the rest is going to remain as a campground.

G. Lake: Okay. The rest at this point is just to remain. Any plans of coming back to re-subdivide.

G. Rich: Not at this time.

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

G. Rich: Yes.

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

G. Rich: The driveway culvert, the engineer addressed it. I did not receive comments from the Highway Department.

D. McGoey: He wants a certification statement on the plan certifying that the proposed driveway sight distances meeting or exceed AASHTO standards.

G. Rich: The septic system has to be reviewed by Eustance and Horowitz. The percolation tests were so quick, we're doing it again.

G. Lake: You couldn't find the data?

G. Rich: It's quite a distance away. It's miles and miles.

G. Lake: Nothing close?

G. Rich: No.

D. McGoey: That's right Mr. Lake. It is quite a ways away.

G. Rich: I put the silt fence detail on the plan.

G. Lake: Let me go through the Board.

A. Dulgarian: Nothing. Mr. McGoey's comments are all technical in nature.

H. Ross: Yes. I'm fine with this.

R. Carr: Nothing.

C. Najac: Nothing.

T. Hamilton: Nothing.

G. Lake: I don't have anything. I think it's straight forward.

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

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

**MOTION for TWO (2) LOT SUBDIVISION 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**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

11. **QUICK CHEK** - SITE PLAN/SPECIAL USE PERMIT - 761 Route 211 East  
(41-1-78.12) #17-06

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

H. Geneslaw: My name is Howard Geneslaw representing the Quick Chek Corporation.

G. Lake: Go ahead.

H. Geneslaw: Since the last meeting of the Planning Board we did attend a work session

approximately a month ago. We went over the issues at that point and time and I think we have everything resolved. We have a Site Plan revision and we can bring you up to date with

further revisions since our last appearance the full Board. Hopefully the Board will be inclined to act on this application tonight and grant Site Plan Approval and the Special Use Permit.

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

H. Geneslaw: Yes we do.

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

H. Geneslaw: Sure. Mr. Martell, why don't you go through those?

J. Martell: My name is Jeff Martell, Project Engineer for Bohler Engineering. Referencing Mr. McGoey's report prepared April 12, 2007 #1, comments from Charles Sells Engineering the Planning Board's traffic consultant should be received and addressed in regard to the latest traffic study dated February 28, 2007. Paul Going, would be better to respond to that as Traffic Engineer.

P. Going: My name is Paul Going. I've spoken to Bernie Callas several times over the past few weeks and several times today. In fact, he told me that he doesn't have any significant issues. I know that he has an issue but we haven't received a letter yet. He told me that he would put in a call to Mr. McGoey tomorrow.

J. Martell: At this point, we don't have a letter. #2. A note should be placed on the plan which requires that the sub grade and sub base of the parking area be proof rolled in the presence of the Town Engineer and found to be unyielding prior to the placement of pavement. We will put that note on the plan in regards to the sub grade. #3. We should discuss the height of the canopy. We recommend that the height be minimized to avoid having the lights under the canopy being visible from Route 211. Our original application called for a seventeen and a half foot under clearance. We've since revised that to fifteen feet. We are willing to reduce it to a minimum of fourteen and a half feet. That would be the minimum that we're willing to reduce it for adequate under clearance for any essential trucks.

H. Geneslaw: I believe at the last work session we discussed the fifteen foot height and the Planning Board didn't have any objections at that point. So, we weren't sure if that was

satisfactory or any further reductions was required. We propose to leave it at fifteen feet unless there's a slight objection to lowering it.

G. Lake: I personally don't have a problem with that as long as the lighting doesn't stray.

D. McGoey: I've been fairly adamant. The site is higher than Route 211. And then, add to that the fifteen feet you're going to be looking up and will be able to see.

G. Lake: Let me ask you guys something. How much further down are you going to be taking that stuff?

J. Martell: The grade of the canopy is higher than Route 211 so approximately four feet. So, we don't . . . Generally what it is today, generally the site is pretty flat, what's out there today. We are utilizing flush mounted flat lens fixtures. It's the latest technology on the market. We do think we are purchasing and installing the best product on the market today to try and limit that as much as we can.

D. McGoey: Recessed type light up in, so they're flush and not recessed.

J. Martell: We can. The recessed are by an inch and a half. What we could do, is we could take delete, we could recess them about a foot. Quick Chek has done that on one other application with a similar concern with the grade differential from the road. We did recess it about a foot. It seems to be effective.

T. Hamilton: What's the standard height on any on our highways? They're not fifteen feet.

J. Martell: No. Fourteen feet.

D. McGoey: Thirteen feet.

J. Martell: We would be comfortable with fourteen feet six inches. The lights would be at fifteen six and the lowest part of the canopy would be at fourteen six. We will make that change. #4. Lighting levels should be reduced. The lighting levels in the front parking lot exceed five (5) foot candles. The lighting levels in the easterly parking lot are at seven (7) foot candles, and the rear parking lot between four (4) and five (5) foot candles. We recommend all lighting levels be reduced to a maximum of three (3) foot candles with the exception under the canopy. Again, I believe, I wasn't present at the last work session however, I believe we discussed this and the lighting was found acceptable at that work session. We are utilizing three hundred and twenty watt fixtures (not clear) and a half feet high directly under those lights. I'm getting a reading from Mr. McGoey in his letter in order

to comply with three (3) foot candles we would have to lower the wattage of the area lights and most likely have to add one and a half to two times the number of fixtures. We prefer not to go down that route if the Board found the current lighting plan acceptable.

G. Lake: I think you could go down. It's to eliminate the spillage unless it's a safety issue.

D. McGoey: One of the things about that particular neighborhood is that this will be quite a lighted site.

J. Martell: To answer your questions, Mr. Lake, the candles at the east, north and west property lines and along the road at the curb has a maximum of .2. The lights are well contained on the site. If can see a dotted line, that's a .5 foot candle line. That's pretty well contained in the parking areas of the site.

D. McGoey: The candles around the car wash are extended also?

J. Martell: Yes, that's your next comment. That is an architectural feature. It's not a functional or safety. Quick Chek has a desire to light the car wash for presentation purposes on the side of the building. That's not necessarily a safety aspect. It's more of an architectural and presentation feature. To go to three (3) foot candles we would have to eliminate the three lights right over the car wash and just have it be part of the area lighting.

A. Dulgarian: Mr. McGoey, are the foot candles based on the amount of light or the intensity of the light or both?

D. McGoey: The wattage and the height of the fixture above the surface.

T. Hamilton: And the spillage.

A. Dulgarian: So, basically it's the size of the fixture. In other words, it's not something that has to be policed if we approve it will still be on fifty watt bulbs and try to put one hundred watt bulbs in after approval? It's a lot more than that, right?

D. McGoey: If the photometric's are correct . . .

T. Hamilton: As long as they put in the wattage . . .

D. McGoey: We have problems with T.G.I.F. where they changed it.

A. Dulgarian: Oh, it is policed?

D. McGoey: Policed by people who stop out there and all of a sudden see the difference in the lighting..

A. Dulgarian: Okay, so we do have the means to address it?

D. McGoey: Yes.

G. Lake: We have a Code Enforcer that does that.

J. Martell: There are instruments that measure the rating. You can stand there with an instrument and measure the light levels. Is there any discussion from the Board regarding the foot candles in the parking area, comment #4 or the foot candles adjacent to the car wash, comment #5? We prefer that those lights be there. They're an architectural feature for presentation purposes. There's no . . .

A. Dulgarian: Then, why would you (not clear).

J. Martell: They shine directly down. They're reset within an awning or a feature of the building. If you picture an angled roof that proceeds out, they're within the roof feature. They're not visible but they shine directly down. They're only function is to light the facade of the car wash for presentation purposes. Sometimes you see a restaurant light that is flush to the walls of the restaurant around it, just so it's more visually appealing.

H. Ross: So it's clear in my mind. It's on the front of the building underneath the overhanging roof of the car wash?

G. Lake: They shine on the site.

J. Martell: The awning that comes out over the building over the sidewalk the lights shine directly down. It would be more visible over here. It is directed towards the side of the building.

A. Dulgarian: The way the topography is, the property in back is probably above the roof of the car wash or close to it?

G. Lake: It's going to be close to it Mr. Dulgarian by the time they're done..

A. Dulgarian: So, it's only going to affect Route 211 basically?

G. Lake: I think it's only going to affect the building. I think they're just going to shine on the building.

J. Martell: Yes. The grade at the nearest point in the northwesterly corner of the property is five seventy five. The finished floor is five sixty one. The building is approximately twenty three feet tall so the top of the building will be about two feet lower than the grade.

A. Dulgarian: Twenty three feet tall, what's that the peak?

J. Martell: Yes. It's the top of it.

H. Geneslaw: The elevation . . .

G. Lake: Let's get through with the comments and then I will go through the Board.

J. Martell: The building itself is . . . The lights would be mounted at ten feet .

H. Geneslaw: Are items #4 and #5 resolved then as far as the lighting or . . .

G. Lake: Let's go through the comments and then we will go through the Board.

J. Martell: #6. Comments from the Fire Department should be received and address. We have not received any comments.

H. Geneslaw: We address that, I think, with the Board before and the last time you stated we didn't have to proceed with that any further with the attempted efforts that we made.

G. Lake: Right. I think we looked it up and it was sent several times. They have not responded. The only thing I would say is if you're going to use trusses, make sure you put the truss plaque on the outside and make sure you put a ., but you're open twenty four hours so . . .

J. Martell: The truss plaque is indicated on the plan. #7. The applicant should verify compliance with Behan's landscape comments. We will move to that in a second. We have

a new letter. #8. The Planning Board should review the landscape plan acceptability including a determination as to whether the buffer between the residential zone and the

commercial site is satisfactory. We have evergreen planting on the northerly property line as well as plants around the wall as well as a topography change acting as a natural buffer. #9. We request that Sells advise the Planning Board as to whether the traffic impacts at the intersection of Tower Drive and Route 211 warrant a mitigation contribution for the left hand turn lane at this location.

G. Lake: Have we talked to them about that?

D. McGoey: I haven't gotten an answer from them yet.

G. Lake: Okay. Is that something we can talk about if we do it subject to?

H. Geneslaw: Well, I think we would like to at least have an idea what kind of numbers we're talking about. I did speak to Mr. Bacon this afternoon and my understanding was that, I didn't speak to Mr. Callas directly and I don't know that Mr. Going has either but our feeling was that the number of trips that are being generated by this project the impact would be minimal and therefore there might not be any.

D. McGoey: You could be right but I still feel we should talk to Mr. Sells about it.

P. Going: In other words, the proximity of our site to the Tower hill drive location between our site and that location people would be moving onto some of the side streets and there would not be that many trips.

G. Lake: Okay. Mr. McGoey's comments, you've already agreed to #4, #2, and #6. Is that correct?

J. Martell: That is correct.

G. Lake: The lighting. The big discussion about the lighting right now is the lights on the car wash being a little brighter than the other ones but shining down on the facade. Personally, I don't have a problem. I don't know about the rest of the Board. Is that an issue or not?

A. Dulgarian: To me, I do believe it would be pretty much isolated to that but I would like to see a little bit of a compromise. I mean, if one part of the site is kind of dim, I don't like the idea of that one being that bright. I don't believe that it has to be equal to the store but I know they want they want to feature that but I don't think it needs to be that bright. What's the difference from three to seven feet?

D. McGoey: They're four and five.

A. Dulgarian: Yes. I think that's quite a bit of a difference. I think a compromise is in order. I would like to hear what the rest of the Board says.

G. Lake: Let's get a number because I . .

A. Dulgarian: I'm not a lighting expert.

G. Lake: Neither am I.

J. Martell: We think generally if we cut that in half to nine and ten that would be acceptable to Mr. McGoey and would accomplish what we're looking for if that would be more acceptable.

D. McGoey: I don't think they need it at all. I think there's going to be a lot of lighting on that site. It's a big site and they're covering every square inch of that site with lighting. Even though we say it's three foot candles, there's still a lot of lighting. There are no dark spots on the site.

J. Martell: For the reason of safety it is our intention to light all of the parking lot to a minimum of standards. Actually, we're just trying to create a difference between the light levels on the site and the car wash, that's the intention.

T. Hamilton: Just directed it to the sign that says car wash.

C. Najac: There's lighting on the other site.

D. McGoey: Yes, with the exception of the ATM.

R. Carr: I guess it would be helpful from a standpoint of . . . Three foot candles doesn't sound like a lot but you're saying it's a lot.

C. Najac: Are you making that seven feet at the car wash so it stands out beyond the gas station? If you reduced the lighting to the rest of the area you could reduce that lighting. If you're using seven as the basis for the whole parking lot so it stands out you can reduce the rest of the parking lot to three or four for the intent and you would be reducing the lighting in the area.

J. Martell: The parking lot is very difficult to get a completely even distribution. There's going to be a little bit of a fluctuation. Just to add to the first part of your question, immediately adjacent to the building between the curb and the car wash at the two to three range. It's localized to the front of the building. It's something that we're one hundred percent willing to work with. We don't want to be scratched because we're not willing to lower it.

G. Lake: Cut it half or something.

J. Martell: We're willing to do that.

G. Lake: Cut it in half and get to highlight the building a little bit.

C. Najac: I'm willing to compromise. I also don't want to find out two weeks after it's built and the lights are on that everyone in the neighborhood may complain. And, if we can do something to clear that up now . . .

H. Geneslaw: The compromise that we're putting on the table is to reduce it by fifty percent. Is that satisfactory to the Board?

R. Carr: I don't know. Again, I don't really have that much. I kind of agree with you Mr. Lake that's it's in area. The bank on the other hand. . .

G. Lake: Listen, we can talk about lighting all night. We're not experts. We've got a choice. Higher somebody for us that is a lighting expert. I think that's what we have to do because we do spend a lot of time on it. We have to find somebody and maybe have one on call because I don't know the different between wattage.

C. Najac: I appreciate the fact that you're willing to compromise and I think it's excellent. I would love to see it. My only concern is if your compromise is still too bright, what do we do then? You're lighting the whole parking lot. You will be a twenty four operation so you won't have the ability to turn the lights off.

J. Martell: We will turn off the lights for the car wash when the car wash is closed and it will probably be eight or nine o'clock at night at the latest.

H. Ross: I know I'm going out of turn but it sounds okay to me.

G. Lake: Mr. Dulgarian, do you have anything else?

A. Dulgarian: If it's only on during the hours of operation, I'm comfortable with that. I will make one additional comment. Fair is fair and I don't think #9 that we hold them liable for any kind of mitigation. I believe nobody is going to go on Route 211 just to go to Quick Chek and it's going to be very minimal. Most of the people going in there are going to be traveling by and to hold them hostage to mitigation on an intersection that's way down the road has nothing to do with them.

H. Ross: I concur with Mr. Dulgarian and item #9.

R. Carr: One thing, on the snow storage area. The two spots in the front, aren't they also landscaping. It seems to me that they have a huge amount of snow storage area on the site. I think the two spots in the front on Route 211 needs further review. While I appreciate all the work that was done to show that all the snow could be stored there until it melts.

J. Martell: For clarification, the Department of Transportation is recommending that we eliminate these two of snow storage areas. They're concern was that the melting would run over the sidewalk and into their right-of-way. We will be eliminating both of these locations.

R. Carr: My only other comment is and I guess it's difficult. I still have a problem with the left hand turn level of service "E" but I was surprised at the traffic study. Actually, I would have thought there were a lot more accidents along that section of Route 211.

C. Najac: I also agree with Mr. Dulgarian on the mitigation.

T. Hamilton: A rendering of the whole site. Does that reflect the landscaping that's been approved? I don't see too many ornamental trees to hide some of this parking lot and all that stuff.

J. Martell: It's an artist rendering.

D. McGoey: Behan reviewed the landscaping.

T. Hamilton: It's difficult to try and read this. I don't know how high they are, etc. I don't know what I'm going to be looking at.

J. Martell: The street trees across the frontage are approximately at fifty foot intervals. Shade trees on the perimeter of the site as well as the landscape islands within the site and around the car wash as well as an additional row of trees along the westerly property line and then evergreen trees along the northern property line and a whole lot of shrubs within the

property. The actual detailing regarding the height at installation is detailed on the landscape plan.

T. Hamilton: I couldn't read that.

J. Martell: Anything in particular?

T. Hamilton: I'm just looking for along the road that you're going to have help hide some of that parking lot.

J. Martell: Shade trees are a combination of red maple, other names. I total of four shade trees, three ornamental trees, sixty seven evergreen trees, two hundred evergreen shrubs, four hundred sixty shrubs around the site. The installation is detailed on the plan.

T. Hamilton: I just didn't see it on that other plan on the bottom. I didn't know what we were getting.

J. Martell: You're getting what's detailed on the landscape plan which is sheet #7 of the package.

T. Hamilton: What about an elevation of what I'm going to see from the road because I can't tell by that. The other thing, the architectural rendering of the front of the building.

J. Martell: It is exactly what was submitted but this is in color. The top represents the east and west elevation. The middle one on the board is the south elevation facing Route 211.

T. Hamilton: I still see the glass panels almost down to the sidewalk. I'm not in favor of that. That's all I have to say.

G. Lake: The landscape but Behan did send down that they had to address all their comments and she had a couple of new ones for irrigation to keep the plants alive, things like that. I have to assume you got this?

H. Geneslaw: Yes.

G. Lake: You don't have a problem with that, I assume.

J. Martell: We don't have a problem with the landscape irrigation. We're changing one species around the entrance. We don't have a problem with the maintenance note. We don't have a problem with those three in that paragraph. Her next two bullets in the fourth

paragraph on the page in regard to the retaining wall and the parking spaces which I think we addressed previously.

G. Lake: Right, I believe you did. The only other thing, I know we talked about it once.. I been kind of asking new people coming in to make sure that there's a chance to get this L-85 fuel. I hope you go forward. It was mentioned at the work session.

J. Martell: What Quick Chek plans is that there is a separate tank for diesel, a twelve thousand gallon tank and has separate product piping and has separate pumps that could easily be converted without touching anything on the site for an alternate fuel, should that be the case in the future.

A. Dulgarian: So, you would be getting rid of diesel?

J. Martell: That's the easiest option to go to the alternate fuel without having to do any type of construction. Other options are there. We have a total of four tanks that could convert. One of the other tanks they would have to do some modifications to the product piping though. T convert the diesel they wouldn't have to cut the pavement at all. It's definitely doable and it's something that's been brought up in the past.

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

A. Dulgarian: Can you put up the elevations again please that's down on the floor? The windows, what view are those two windows from?

J. Martell: The top?

A. Dulgarian: Yes.

J. Martell: The top is east and west or the right and left side.

A. Dulgarian: Why wouldn't you have them on the other side of the building, what's on what would be the Montgomery side or the east side of the building?

J. Martell: The east is the top right.

A. Dulgarian: There's glass on that side, what's it facing?

J. Martell: The parking lot. There's a dual entrance there on the east and west side.

A. Dulgarian: So, you have no intentions of changing that window height like we asked about? I know we talked about it and you guys said you wanted it for safety issues but we brought it up on several occasions because of the look of what you can see because people load up stuff there.

H. Geneslaw: It's Quick Chek's policy, we do not store merchandise in front of those windows and it's from a security standpoint. That's something that Quick Chek does not want to compromise on. They prefer the glass from top to bottom to promote the visibility into the store. That's something they take seriously. And, the company that does stack products or merchandise in front of those windows. It's not a matter of seeing things stacked up there as in other types of convenience stores.

J. Martell: We would be willing to put a note on the architectural plan that there would be no storage in front of those windows. We could designate an area on the floor plan.

A. Dulgarian: That it's not for a display area.

J. Martell: We could designate that on the architectural plans as a condition on this approval that we would not store anything in front of those glass windows.

A. Dulgarian: I think that's all we're looking to accomplish.

D. McGoey: The architectural plan is not part of the Site Plan so, it should be on the Site Plan somewhere.

J. Martell: We can put a note on the Site Plan.

G. Lake: You're going to put it on both then?

J. Martell: We will do it on both.

G. Lake: Does anybody else have anything? If not, then

**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 C. Najac.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

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

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

J. Martell: A lot line change.

G. Lake: What was that?

J. Martell: A lot line change.

H. Geneslaw: We're deleting one of the two lot lines. It was done initially when there was a subdivision proposed. Now, that there's no longer a subdivision proposed since be dropped the bank , the lot configuration won't make any difference now.

J. Martell: We show it on the plans now.

**MOTION for a LOT LINE REMOVAL CHANGE made by T. Hamilton and seconded by C. Najac.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

G. Lake: If we got down to the County, they would kick it back so, this way it will be right.

J. Bacon: That's exactly what happened.

12. **AIDEN ESTATES** - 17 LOT SUBDIVISION - Bart Bull Road (31-1-29.4) #81-02

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

T. Olley: My name is Thomas Olley. We're the engineers for the applicant. The project before you is a proposed seventeen (17) lot subdivision on Bart Bull Road just on the south side of I-84. The project has actually been before this Board for possibly the last four and a half years. It started out as a nineteen (19) lot subdivision. It was reduced from seventeen (17) lot subdivision, reduced to a sixteen (16) lot subdivision. The Town changed the zoning and also announced the conservation subdivision standards. What the applicant is seeking is to do a seventeen (17) lot subdivision whereby in using the conservation subdivision provisions and what it would do is create a very extensive buffer along Bart Bull Road. It would put all of the development to the rear of the property. According to the Town, we need to do a couple of things so that we can proceed. One of them is to establish a lot count. What I would like to do is to just entertain any of the Board's questions. We've submitted several pieces of information. One is a track resource map which is the color photograph.

There's also a technicolor photograph full scale that has the proposed conservation subdivision laid out on it so that you can see that we're following the guidelines of the conservation subdivision, trying to use tree lines and stone walls, natural or historic man made features on the site. We've also submitted to you a conventional subdivision plan which is the front page of the stapled set as well as the detail plans for the subdivision. We're taking it to the advanced stage that it is because the last time this project was submitted to the Board we were trying to get the Board to schedule a Public Hearing which they couldn't do because of the moratorium. An awful lot of that work has been done. The only other thing I would like to point out about the layout is in order to keep this conservation subdivision we do have to build about seven or eight hundred feet of road into the center of the site and to help offset that cost we are looking to go back to the seventeen (17) lots rather than sixteen (16) lots. We have given up the one lot as requested by this Board back a couple of years ago when we were pursuing it. There was some concern about the number of lots that were being developed off of Bart Bull Road and we voluntarily reduced two lots that would have had access off of the new subdivision.

G. Lake: Before I go to the Board, the conservation commission, you know with the buffer between I-84 and there and the amount of wetlands. I think before we go too crazy you should get them.

T. Olley: We have already, and they sent a note to the Board. Marylynn faxed it over to our office this week. We met with them back in October and they were fully supportive of this because it really was a model of how a property can be developed with the conservation subdivision.

G. Lake: The Highway Superintendent, have you spoken to him at all?

T. Olley: We spoke with him back with the original layout which it not . . .

G. Lake: I've never seen so many comments from him. So, I think you're going to have some work to do with him before you continuing on much further. As far as the length of the road, is the because it's a country road, do you think?

D. McGoey: Oh,

G. Lake: And I guess the question is where does the cul-de-sac begins and ends?

D. McGoey: I think it is up to a thousand but I didn't make that comment. If you measure it from . . .

G. Lake: Do you measure it from the road or from the intersection?

D. McGoey: Personally it's not a dead-end until it starts . . .

G. Lake: At the intersection.

D. McGoey: I will defer to Mr. Bacon on that for an interpretation. It would be more than one thousand feet.

R. Carr: If we could get around the cul-de-sac law.

G. Lake: I don't know. Mr. Bacon will investigate that for us but that might be something to send him to the Zoning Board of Appeals on for an interpretation. We're getting awful close to adopting the new zoning and this is now on the things I think we're just going to have to get a handle on. I remember the layout that was here way back when. It hasn't changed too much. I really don't think I have a lot of problems back with it back then. I think it's just a matter of brushing up on it. Like I said, including the Highway Superintendent.

T. Olley: If I may, he may have a lot of comments here but a lot of them are just specification issues and note issues. Just going through here very quickly I don't see anything other than determining which road cross section we're to use and we're quite frankly we're looking for some guidance from the Board and the consultants to determine whether you want roads with shoulders or do you want curbs and sidewalks. What road width do you want us to use on this and these are . . . It doesn't really make much of a difference in the engineering of it whether we use a twenty four foot road or a thirty foot road just give us a direction as to what you want with a conservation subdivision.

G. Lake: Historically in rural sections like this we have gone along basically and the Board will correct me if I'm wrong but a twenty four foot pavement and then three foot paved shoulders on the sides that gives us the thirty foot but again, this is only here for sketch. At this point I don't know if we're going to want curbs or not. And, I don't know if the Board is going to want insist on sidewalks out there. Historically in rural areas we don't do that.

T. Hamilton: The definition on a cul-de-sac. An entranceway to a development of a subdivision with only one outlet.

G. Lake: Let me go through the Board. This is here for sketch.

A. Dulgarian: I don't see real problems with it. I kind of like the looks of it. I think he's going in the right direction.

H. Ross: So far, so good.

G. Lake: Bart Bull Road all the way back, what's that length?

T. Olley: Pardon?

G. Lake: From Bart Bull Road all the way back?

T. Olley: Eighteen hundred feet.

R. Carr: Is there a limit on a cul-de-sac on a conservation subdivision?

G. Lake: Anything else, Mr. Ross?

H. Ross: No.

R. Carr: I remember this and I wasn't crazy about it at the time and I'm still not crazy about it. Let me ask you this. In determining the lot count, Mr. Bacon, can you use an eighteen hundred foot cul-de-sac.

J. Bacon: I'm just looking at that.

R. Carr: I'm saying in determining the lot count do you have to use a conventional subdivision to determine your lot count? Can you continue to use a cul-de-sac that you can't get with a conventional subdivision in order to determine what your lot count is?

J. Bacon: The applicant should be made aware that the Town Board will be adopting the new zoning regulations shortly and that might change.

T. Olley: We're aware of that. We're trying to . . . This applicant has been held up several times with changes in the zoning regulations. This will probably be the fourth change of the zoning regulations. We're not saying that this Board has anything to do with it. It's been the Town Board making those decisions. In fact, they (not clear) from even considering an earlier version of this for a Public Hearing. We can't sit back and wait for more and more changes. We do have to go forward if we have to make some changes during the process, we realize that. It's takes a long time to get on this Board's agenda so, we will have to deal with

that as we go. Now, the one thing, to address the comments that you had about the length of the cul-de-sac. That is a subdivision regulation. It's not a zoning regulation. And, this Board or the Town Board can always waive those requirements given the circumstances.

D. McGoey: One thousand foot minimum not to exceed twenty five hundred.

T. Olley: I think we now have the ability even in a conventional subdivision given the . . .

R. Carr: I just don't know if an eighteen hundred foot cul-de-sac can determine the lot count and, it can't be this Board that says you can have more than one thousand unless it's a conservation subdivision but to determine your lot count from conventional and conventionally this is not permitted.

T. Olley: We can add a cul-de-sac go through a wetland permitting issue.

R. Carr: I'm just telling you about the lots. That's up to you what you want to do.

A. Dulgarian: You're getting the lot count from a conventional subdivision is what Mr. Carr is saying. I follow what he's saying. I agree.

T. Olley: I mean, if you want us to submit one that has a one thousand foot cul-de-sac to show the same lot count, we can do that.

R. Carr: I think . . .

T. Olley: I would ask you to ask your Attorney just to look into it because I don't know that.

R. Carr: The only other thing that, I guess I'm on the fence, I'm not crazy about it but I don't know that it's a great conservation. It does preserve on Bart Bull Road and, that I do like. It does put the houses a lot closer together though in that area which is not necessarily bad.

C. Najac: The lot count should be the standard count. I do like the effort to protect Bart Bull Road but I think this is too ambitious for the lot count.

T. Olley: Believe me, we've done it correctly.

C. Najac: I will refer that to our Attorney.

T. Hamilton: Nothing further.

G. Lake: Like I said, I remember a lot of this. I think what we have to do right now is Mr.

Bacon will have to check for us and find out the intent of the length of the cul-de-sac. If not, he will have to go to the Zoning Board of Appeals. I do agree with Mr. Carr that you're saving along Bart Bull Road and I did talk to the Conservation Commissioner earlier. I think you should make contact with him again because . . .

T. Olley: In all due respect it's getting ridiculous. We've been since October.

G. Lake: All I'm saying, he just mentioned a couple of things he would like to talk about. So, it's a telephone call. You're only here for sketch. That's it. It's just a matter of . . . You've heard the Board's comments. We're going to get a couple of issues straightened out and you're going to go back to a work session any way. No time is lost.

T. Olley: The only thing about the . . . We will make the telephone call but since, I just asked Mr. Yanosh because they were at the meeting with me. We met with them in October and got a very favorable review and reception from them at that meeting.

G. Lake: Again, he said just a couple of little things. I don't remember what they are. He is working tonight. He took the time to come in and said he wanted to look at something on this again. You've heard the Board's comments. We're going to get a couple of issues squared away. Get back to a work session. I think you have a favorable.

D. McGoey: Should this go up to Behan?

G. Lake: Yes. We probably should send it up.

**MOTION to TABLE for further review made by T. Hamilton and seconded by A. Dulgarian.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

13. **SZULWACH** - 2 LOT SUBDIVISION - Goshen Turnpike (7-1-11.2) #13-07

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

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

G. Lake: Go ahead.

D. Yanosh: It's a two lot subdivision on Goshen Turnpike. This is a 5.83 parcel of land in the RA zone. The owner's have owned the property since 1990. It's one of Mr. McGoey's comments. A subdivision was filed about 1990 and he bought it shortly after so it's been in his ownership since 1990. The proposal is for two lots. One would have major road frontage on Goshen Turnpike 2.14 acres and lot #2 which is the flag lot in the back 3.242 acres.

G. Lake: Mr. McGoey's comments.

D. Yanosh: Again, the flag lot I think that's still a valid lot width. Item #2. I will move that septic system up out of there or just look at the soils. It's not 82 soils for sure. If I have to move the septic up, I would have no problem doing that. We have enough separation distance to do that. Again, this was part of the subdivision that was done in 1990 and the owner has owned it since then. So, it would be a minor subdivision since it's been more than ten years. The grade of my driveway is eleven, I probably could make it a little bit less by lowering the front. It's the Board's discretion as to whether, the subdivision regulations say twelve, we're at eleven. I could try to reduce it down to a ten. It's a Town of Wallkill road. He had no comments for this. The culvert details is the standard one.

D. McGoey: Isn't it a County Road?

D. Yanosh: This portion is maintained by the Town. The septic system for lot #1 was approved by Eustance & Horowitz years ago after Mr. Szulwach bought the property. We still have to go back to them. We have no problem with that. The field observation, the swale that's up there. . .

D. McGoey: You don't show anything.

D. Yanosh: There's nothing there. The wall is pushed back. It's all graded through there.

It's a pretty flat area right there. We have the note about the Highway Superintendent is going to have to come out to review for the culvert because it is a flat area.

D. McGoey: You may have to re-grade those shoulders.

G. Lake: Mr. Yanosh, is it possible that it could be swaled towards the back?

D. Yanosh: What do you mean?

G. Lake: Well, I guess Mr. McGoey is worrying about the front and you're one hundred percent right. It is flat right through there. Does the land drop towards the back?

D. Yanosh: Yes it does. It rises a little bit and then drops toward the back. Maybe Mr. Lippert won't even require a culvert there. The house across the street doesn't have one. I did locate the house next door, the Baker house. There are two across the road. They're a long ways away. I show the driveway across the street from our proposed one. We can take care of that with no problem. The stone wall across the property I think is shown and where the proposed house is going to be, you see a steep contour behind there. It was there when he bought the property.

G. Lake: Let me go through the Board.

A. Dulgarian: I have nothing.

H. Ross: No.

R. Carr: The only thing I was going to mention was the driveway slope.

G. Lake: I was going to say if he could lessen that slope of the driveway. There's two other houses right up heading towards Route 302, a very similar situation and I haven't heard any complaints from anyone. Anything else?

R. Carr: No.

C. Najac: Nothing.

T. Hamilton: The bulk tables . . .

D. Yanosh: That's because when you go to a ten acre lot, you go to two acres.

T. Hamilton: Now, the soils formula says three.

D. Yanosh: That's incorrect. It should say two.

T. Hamilton: Don't you have to go by the soils itself?

D. McGoey: You have to go by the soils.

T. Hamilton: What does he go by, the three or the two?

D. McGoey: I think with ten acres it could be a Type I which would be two acres.

T. Hamilton: That's all.

G. Lake: Like I said, I think the driveway should have a little less slope to it as possible. I realize they say twelve but I think that's a lot. Mr. McGoey, is there any reason why we can't do this as a subject to?

D. McGoey: No. There's not that many issues. If he could move the septic system.

D. Yanosh: We will take care of that.

**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**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

**MOTION for TWO (2) LOT SUBDIVISION subject to all of Mr. McGoey's comments and this Board's comments made by T. Hamilton and seconded by C. Najac.\**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

14. **COCHRANE/ROGERS** - LOT LINE CHANGE - RE-APPROVAL - Brookline Avenue (74-6-9.2) #94-05

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

S. Cochrane: My name is Shirley Cochrane. We're here to get a re-approval for a lot line change from my neighbor's property. It was approved back in March 2005 and I didn't realize the time period to get it down to the map office.

G. Lake: Right. Nothing has changed?

S. Cochrane: Nothing has changed.

G. Lake: I will go through the Board.

A. Dulgarian: No issues if it's the same one.

H. Ross: No.

R. Carr: No.

C. Najac: Nothing.

T. Hamilton: Nothing.

**MOTION for a RE-APPROVAL of a LOT LINE CHANGE made by H. Ross and seconded by A. Dulgarian.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

15. **RSR** - SITE PLAN/SPECIAL USE PERMIT - 65 Ballard Road (41-1-70.21) #16-07

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

T. DePuy: My name is Thomas DePuy with DePuy Engineering. I'm representing RSR. We're proposing a four thousand square foot addition on the front of their building. It's actually two stories. What they want to do is they want to consolidate their offices. They want to update their locker rooms, showers and they're going also include an exercise room for the employees. Basically with the addition off the front here we will have to re-arrange the access around the building and into some of their shipping areas here. I've highlighted it in blue. Now the entrance will come down through here, wrap around the existing road here. It will come around and wrap around the new building. This modular building will be gone and they will come back in here. Also, they have some traffic that runs this way. This area will stay open and they will be able to get around this way into there. Also, part of this

application is there was an interim administrative trailer brought on the site which they never got Site Plan approval for, so that's part of the application also.

G. Lake: Is that staying?

T. DePuy: That will leave when the addition is done. They need to move some people out into that area and also this modular office building here will also be eliminated and Mr. McGoey had asked about the trailer where the receiving and shipping is and that will also be removed.

G. Lake: In the back?

T. DePuy: Yes. On the backside over here. There is a trailer out here.

D. McGoey: Beyond the fence line.

T. DePuy: Yes, that will also be removed.

G. Lake: Mr. McGoey, your comments?

D. McGoey: I don't have any real problem with it. Can you satisfy all of his comments?

T. DePuy: Yes. One little thing. On the receiving trailer, can we use that until we get a Certificate of Occupancy on the building?

D. McGoey: Which trailer was that?

T. DePuy: The shipping and receiving trailer.

D. McGoey: Oh, yes.

T. DePuy: And then the only other thing is we're going through all the Building Permits and Certificate of Occupancies. The only one that I don't think we can get a Certificate of Occupancy on is the stormwater collection transfer. That's still open with the Department of Environmental Conservation, correct?

D. McGoey: I believe so.

T. DePuy: We can put a note on because that's still on-going. It's part of that re-  
mediation

thing that's  
been going  
on. There is a  
Building  
Permit  
covering that.

D. McGoey: The oxygen generating tanks do they comply with Building Permits?

T. DePuy: The Building Permit was issued, the Certificate of Occupancy was not. We will update the drawing.

D. McGoey: The only other concern I have and I haven't seen it to be a problem lately but the traffic trailers parking outside.

T. Hamilton: You took my comment. They are there all the time. They should schedule deliveries so that, because right now there isn't enough room to line up.

T. DePuy: Right.

T. Hamilton: I was out there last week.

T. DePuy: A representative from RSR, that was discussed. They have no problem in accommodating that request..

G. Lake: Let me go through the Board.

A. Dulgarian: If Mr. McGoey is satisfied, I don't have anything.

H. Ross: The current status of (not clear).

R. Carr: Outside of Mr. McGoey's comments, I have nothing further.

C. Najac: Nothing.

T. Hamilton: Nothing further.

G. Lake: I don't have anything. We're going to get rid of a lot of odd-ball stuff and the trailers on the road.

**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 C. Najac.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**

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

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**C. Najac: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 6 AYES**