

TOWN OF WALLKILL PLANNING BOARD

MEETING

APRIL 20, 2005

MEMBERS PRESENT: G. Lake, W. Capozella, R. Carr, A. Dulgarian, P. Owen

MEMBERS ABSENT: T. Hamilton

OTHERS PRESENT: D. Brodsky, D. McGoey, S. LaBruna

1. PUBLIC HEARING 7:30 P.M. - **MEAD SEAL COATING** - SITE PLAN/SPECIAL USE PERMIT - 45 Webb Road (69-1-56) #151-04

G. Lake: Public Hearing started at 7:32 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, in said Town, on the 20th day of April, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Mead Seal Coating, formerly owned by Anthony & Mildred Parella, 45 Webb Road, Middletown, New York, 10940 for approval of Certificate of Occupancy for existing use on Webb Road under Section 249-38 and 249-40 of the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

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

C. Foti: My name is Cecil Foti, with Fusco Engineering.

G. Lake: Give us a description of what you're going to be doing.

C. Foti: We have an existing parcel, Section 69, Block 1, Lot 56, 1.94 acres lying on the easterly side of Webb Road, individual water and sewer. The existing and proposed use is a residence with a Seal Coating business. The applicant is seeking a Certificate of Occupancy which we respectfully request at this time.

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

P. Owen: I will wait.

R. Carr: I will wait.

W. Capozella: I will wait.

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

O. Wood: I'm the owner of property diagonally across from it.

G. Lake: Across Webb Road?

O. Wood: Yes. I'm at 34 Webb Road. My main concern is the egress out of there with trucks. We have Orange County Community College around the corner and we have kids going at least fifty miles an hour. The visibility coming out of there is very poor. Is there going to be a lot of equipment with trucks and what's going to be stored there and how it's going to be stored? Will it be environmentally safe? It hasn't been in operation for a long time.

G. Lake: Do you have anything else?

O. Wood: No, that's it.

G. Lake: He will answer that for you.

O. Wood: My main concern is the traffic.

G. Lake: He will answer that for you and he will also explain the operation.

O. Wood: Okay. Thank you.

A. Fusco: My name is Al Fusco with Fusco Engineering. I'm very familiar with this parcel. It previously had been Parella Blacktopping. The owner's son is here this evening and he can attest that this has been a blacktop business for over thirty years. The operation has really not been changed substantially. It's going from a blacktop business to a seal coating business.

G. Lake: Why don't you just explain, since it's not going to be a blacktop business, the difference? Not everybody knows that.

A. Fusco: The seal coating business is basically, Mr. Joseph Mead has been renting property for . . .

J. Mead: About two years.

A. Fusco: He has been renting the property for two years now and basically they go out and they seal and patch driveways. They leave in the morning basically. This is their home office and where they store the equipment. They leave in the morning and come back in the evening. The traffic goes out in the morning and then come back in the evening. Their traffic is fairly limited. They do obviously come back sometimes in the morning if they are in between jobs. It's not a high volume business. In addition to it, they do some small blacktop jobs, driveways and things of that nature as well.

Basically they seal driveways, do patching. They have been in operation there for two years. They have cleaned up the site considerably. Since they are in the process of trying to purchase the property from the Parella family, when they went to get their financing they went to Mr. Steenrod's office and found out at that time that they did not have any Certificate of Occupancy for the building. So we have to comply with the requirements of Mr. Steenrod and had requested to have a bathroom put in which wasn't in the original permit. He advised us to also to go to the Planning Board for the Special Use Permit for the project and that's why we're here this evening.

G. Lake: Do you have everything squared up with Mr. Steenrod?

A. Fusco: The only items that we have still open are that we need to deal with Eustance & Horowitz to have the septic system design witnessed and the percolation tests and the design finalized. That's part of the Building Permit is the septic system because of the bathroom.

G. Lake: How many people are we talking about?

A. Fusco: Employees?

G. Lake: Yes.

A. Fusco: I believe they have about four to six employees.

G. Lake: The raw materials, the seal coating that goes on top, the blacktop driveways, that's all going to be stored inside?

A. Fusco: Yes. Everything is stored inside.

G. Lake: Did you have a chance to talk to the Highway Superintendent?

D. McGoey: No. I guess if there is not going to be any work on it he doesn't have a problem.

G. Lake: Okay.

D. McGoey: It's a pre-existing driveway.

G. Lake: Before I close the Public Hearing, is there anyone else who would like to speak on this application?

MOTION to close this PUBLIC HEARING at 7:40 P.M. made by P. Owen and seconded by R. Carr.

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 4 AYES

G. Lake: You have two items on Mr. McGoey's list. Are you going to have any problems tying that into the Town datum?

A. Fusco: That's one thing that we would like to request a waiver of tying in. The property is on Webb Road and we would have to go almost to the Pocatello Firehouse to tie it in and it does represent a hardship on the Mead Seal Coating folks. They are a new business and their funds are limited and we would respectfully request a waiver of that requirement.

G. Lake: The nearest monument that you can tie into is all the way out to the Pocatello Firehouse?

A. Fusco: I will turn that question over to the land surveyor.

C. Foti: Basically we have to tie into two monuments and there's one about six to seven thousand feet and the next one is about ten thousand feet. It's about two miles that we would have to travel in a straight line in order to tie in.

G. Lake: But, this is an actual survey of the property?

C. Foti: That is correct.

G. Lake: We normally don't waive that.

D. McGoey: We've waived it when it's been difficult to find the monuments. We've actually had monuments knocked out.

G. Lake: Pocatello Firehouse is the nearest one?

A. Fusco: You need two to do it.

G. Lake: I realize that but there's none closer? That's something that we need to know.

C. Foti: I sent somebody else to look for the nearest monuments and those were the two closest ones we could find by the school.

A. Fusco: We have that in the recent survey of Bob Delaney and he had certified the recent survey.

G. Lake: Of course, we already talked about complying with Eustance & Horowitz.

A. Fusco: Yes.

G. Lake: Let me go through the Board.

P. Owen: Nothing.

R. Carr: Could you put on the map that no materials will be stored outside?

A. Fusco: Absolutely.

G. Lake: All the trucks are parked where?

A. Fusco: In the back. In the rear of the fenced area.

W. Capozella: The question Mrs. Wood had about the trucks. I looked around and it looks like Mr. Mead's trucks are minimal trucks. They're smaller compared to what Mr. Parella had in there before. That seems like a reasonable use based on what he is doing there.

A. Fusco: Thank you.

C. Foti: Just to answer, we have note #1 which states that all materials must be stored inside.

R. Carr: Thank you.

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

W. Capozella: No, I'm finished.

MOTION for a NEGATIVE DECLARATION subject to all comments made by P. Owen and seconded by R. Carr.

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 4 AYES

MOTION for SITE PLAN/SPECIAL USE PERMIT subject to all comments made by P. Owen and seconded by R. Carr.

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 4 AYES

2. PUBLIC HEARING 7:35 P.M. - **MALMARK** - 3 LOT SUBDIVISION - Lybolt Road (12-1-2) #149-04

G. Lake: Public Hearing started at 7:46 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, in said Town on the 20th day of April, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Malmark Construction Corporation for approval of a two lot residential subdivision, Gordon Road and Lybolt Road, under Article 111, Section 4G of the Subdivision Regulations of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

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

L. Potter: My name is Lorraine Potter with Lanc & Tully Engineering.

G. Lake: Your mailings?

L. Potter: Mr. Myerson went to pick them up. He had forgotten to bring them with him. He's coming right back.

G. Lake: Go ahead.

L. Potter: This is a proposed two lot subdivision located at the intersection of Gordon Road and Lybolt Road. The property is in the RA district. The property within the Town of Wallkill is 7.7

acres. We have sent the design of the septic system to Eustance & Horowitz. I spoke with Eustance & Horowitz today. They are sending in approval for the septic system design. I've also spoken with the Highway Superintendent in regard to the relocation of the driveway on lot #1. He is satisfied with that location and said that he would be forwarding a letter to the Board. We are also in the process of, the subdivision line does cross a portion of the property into the Town of Crawford. We have a Public Hearing scheduled for next Wednesday to be able to do the portion on lot #2 on that portion of the road going to that lot number and being subdivided off out of the Town of Crawford. Also, we had forwarded copies of the plans to both Planning Board Attorney's to coordinate for any language that was needed in regard to the subdivision.

G. Lake: How about the Orange County Planning Department, did you hear anything from them?

L. Potter: You had received a letter from them.

G. Lake: Mr. Brodsky, we can just continue and if they don't get the subdivision in the Town of Crawford for that little piece then they live with it as is or, what? Or, do we just do a subject to so we can continue on? The first comment is that it's going to have a Public Hearing on the 27th with the Town of Crawford.

D. Brodsky: I'm a little reluctant to give a final subdivision approval subject to the approval of another municipality.

L. Potter: We're in a Catch-22.

D. Brodsky: I recognize that if they have the same policy then we (not clear) proceed. You might want to make an exception in this instance because they still do have certain time frames within which the applicant has to comply with those conditions so it doesn't keep open the subdivision approval indefinitely. Under the circumstances I would think the Board may want to consider making an exception to this application otherwise if the Town of Crawford has the same policy this would become . . .

G. Lake: So, we can go ahead with a subject to?

D. Brodsky: Go ahead. Although it's not been our policy to do that, I think this is one case where we can make an exception.

G. Lake: Okay. I just wanted to check with you before I went to the Board.

A. Dulgarian: Came in at this time.

G. Lake: I will go through the Board before going to the Public..

P. Owen: Nothing.

R. Carr: I will wait.

W. Capozella: We're going to do this subject to?

G. Lake: Yes.

A. Dulgarian: I will wait.

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

MOTION to close this PUBLIC HEARING at 7:51 P.M. made by R. Carr and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

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

L. Potter: Yes I do.

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

L. Potter: Like I said, the septic system I'm just waiting for the letter of approval from Eustance & Horowitz. In regard to note #11 (went to speak to Mr. Brodsky).

D. Brodsky: Nobody has contacted me.

L. Potter: Okay.

D. Brodsky: Why? Do they have different language than what we have?

L. Potter: I'm not sure. That's why I had sent a letter to you and the plan and I also copied it to Ben

Gelly.

D. Brodsky: Do they have a line of site to this as well?

L. Potter: No.

D. Brodsky: Then this would only apply to the property in the Town of Wallkill.

L. Potter: Okay. Thank you.

G. Lake: Are you satisfied with that?

D. Brodsky: Well, actually the language is right.

L. Potter: In regard to the right-of-way grading detail, I'll discuss it with Mr. McGoey. I had spoken to Mr. Lippert.

D. McGoey: It's standard. I think you've put it on other projects.

L. Potter: Okay. Concrete monuments have been added on all the locations required. On the revised plans we provided a driveway profile showing the minus 2% although the Town specifications don't indicate that.

D. McGoey: Okay.

L. Potter: As I said, I've spoken with the Highway Superintendent and he didn't have any problem with the change of location and I don't know if the Board received any correspondence from him.

G. Lake: Yes and he indicates that he had spoken to you.

L. Potter: Site Plan and/or subdivision must be certified as being tied into the Town's datum. Yes, we will tie it in.

G. Lake: Let me go through the Board.

A. Dulgarian: Nothing.

P. Owen: Just something I just picked up. Note #2 it says total area and I'm assuming . . .

L. Potter: I caught that.

P. Owen: That's it.

R. Carr: Just a piece of the property that crosses the road on lot #1.

L. Potter: Yes. Mr. Myerson had spoken with that property owner but he wanted to continue with this and not complicate the subdivision.

G. Lake: Anything else, Mr. Carr?

R. Carr: That's all.

W. Capozella: Nothing.

G. Lake: I don't have anything.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and the mailings being brought in made by P. Owen and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

L. Potter: Gave the Chairman the mailings at this time.

MOTION for a 3 LOT SUBDIVISION approval subject to all comments previously mentioned made by R. Carr and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

3. PUBLIC INFORMATIONAL HEARING 7:40 P.M. - **ARTICLE XI 249-41** - Maximum time limit for construction of projects

G. Lake: Public Informational Hearing started at 7:56 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: Please take notice that a PUBLIC INFORMATIONAL HEARING will be held by the Planning Board of the Town of Wallkill at the Town Hall, 600 Route 211 East, on April 20, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard on the proposed Local Law setting a maximum time for construction of projects receiving Planning Board Final Approval. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

G. Lake: This is in reference to time limits once the project has been approved. Mr. Brodsky, did you cross these out like this?

D. Brodsky: That is the revised version the Town Board is currently considering. So, I guess I did make those changes after speaking with members of the Town Board.

G. Lake: Basically, what this is about after a project gets approved and I think one of the questions, I think we sent over to them if I remember correctly, is when does the time start. From the time we sign the maps or from the time that they get their approval here. I would assume it would be from the time the maps are signed.

D. Brodsky: On Final Approvals, I would think that it would be final on conditional but we can certainly get clarification of that. That's an issue for feedback with the Town Board I think.

G. Lake: Surely that would be . . . Let's face it. Somebody could get approval tonight.

D. Brodsky: And they may not satisfy

G. Lake: And, I might not sign the maps for a few months.

D. Brodsky: Right.

G. Lake: Whatever the case may be, because of financing or legal arrangements or whatever else.

D. Brodsky: I agree but just to clarify the Town Board is now considering two different time periods. One for Site Plans of up to twenty units and that was for twenty four months and the other for over twenty units and commercial would be thirty six months.

W. Capozella: We don't have time limits.

D. Brodsky: At present, there are no time limits. The time limits are on Building Permits.

G. Lake: Anyway, correct me if I'm wrong, up to twenty units would be twenty four months.

D. Brodsky: Correct.

G. Lake: Commercial would be thirty six months.

D. Brodsky: Commercial and over twenty units.

G. Lake: Up to fifty.

D. Brodsky: It's still over twenty. It would still be for thirty six months.

G. Lake: And, up to one hundred and fifty would be.

D. Brodsky: Still thirty six months.

G. Lake: So, everything is thirty six months.

D. Brodsky: Everything is thirty six months except for a Site Plan of up to twenty units. The rest is thirty six months.

G. Lake: So, somebody coming in, and if they did get through the process and they received approval for one hundred twenty five units.

D. Brodsky: Or, five units, thirty six months.

G. Lake: They get three years to complete it or to start?

D. Brodsky: They have three years to get the last Certificate of Occupancy. Otherwise, all further development and approvals are considered void after that point.

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

A. Dulgarian: I will just wait.

P. Owen: I will wait.

R. Carr: I will wait.

W. Capozella: I will wait.

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

D. Yanosh: Can you explain to me what a unit is?

G. Lake: I'm assuming that it's a townhouse unit, condominium unit or a house.

D. Yanosh: It could be a twenty lot subdivision and what they're saying is . . .

D. Brodsky: My guess is because it refers to Certificate of Occupancies it would refer to each Building Permit that would need a Certificate of Occupancy.

D. Yanosh: I think when people subdivide land and hold on to it for years and years before they sell it to somebody. It doesn't make sense.

G. Lake: My question would be once they got that map filed in Goshen, it's a done deal and that's the way I look at it.

D. Yanosh: True.

G. Lake: You go down to Goshen and file the deeds and do all the paperwork, that's now an independent lot. I don't know if Mr. Brodsky can answer this question or not, how could they turn around and have you undo that?

D. Brodsky: I don't know as a practical matter how it's going to work. I can't answer those questions.

P. Owen: Can you, as the Planning Board Attorney, advise the Town Board our opinions as to the potential implications of this?

D. Brodsky: I provided this Board with a memorandum which goes through some of the possible legal ramifications. If the Board directs after the hearing, I certainly can put that in a memorandum of a letter to the Town Board and that maybe it should be considered before adopting.

D. Yanosh: It doesn't make sense if a portion of a Site Plan should become null and void. If somebody does get a Building Permit for a two lot subdivision. I have a friend of mine where it's taken him over a year for the builder to build the house. What does that mean for him? Does it mean that the subdivision is gone? He has to start over again and do another subdivision. I think it's very ambiguously right here in my opinion. I really don't feel that you're limiting somebody to twenty four months or thirty six months. Is there anything in here for extension requests? I think

they have to look at that also.

G. Lake: I believe it's one of those questions that we can't answer. It's not our law.

D. Yanosh: This will probably go to the Town Board too then, for a Public Hearing also?

G. Lake: Yes it will.

D. Yanosh: I guess these comments will be brought up.

G. Lake: Does anybody wish to speak or ask anything about this, come up please?

P. Berman: We have a subdivision that we had filed when the moratorium kicked in. So, there were two questions. One was someone from the Master Plan Committee when I asked them if they knew anything about this, they said they were under the impression that this was only going to apply to subdivisions that were far enough along that they weren't affected by the moratorium but they weren't going to abiding by the new zoning. It doesn't read that way.

D. Brodsky: There's a second page that indicates that it applies to applications after the effective date.

P. Berman: So, it would cover it.

G. Lake: I would have to assume this doesn't cover anything until it becomes law.

P. Berman: Right.

G. Lake: And then it would be filed with the Attorney General's Office. At that point then it would kick in, I would believe.

P. Berman: So, it would cover people that were under the new zoning, complying with whatever zoning changes.

G. Lake: Your map is filed?

P. Berman: Yes, we're filed. Just for my understanding, this is my first project in the Town of Wallkill. Is there an approval process separate from the subdivision?

G. Lake: No. Once you go through here then obviously you would have to go through the Building Department.

P. Berman: Right, like we buy lots in some of the other Towns and as long as the lot has the septic

plan that was accepted at some point, I've filed maps that were twenty years old.

G. Lake: I believe that's what this law is trying to do. There are a lot of changes out there regarding the stormwater management plan, new type septic systems. I think this law is trying to address some of that so that we don't end up with old technology with somebody doing something that doesn't meet today's standards.

P. Berman: Right. Thank you.

D. Brodsky: One of the issues that the Board may want to consider recommending to the Town Board is if they decide to pursue a Local Law along these lines perhaps substituting the timing for a Building Permit as opposed to a Certificate of Occupancy. The concern is that a builder could have a Building Permit, go through construction, and have potentially vested rights by virtue of the investment in the construction and then just before getting a Certificate of Occupancy, they haven't finished the construction of the building. Whereas, if they obtained a Building Permit in a timely fashion that wouldn't happen.

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

D. McGoey: No. I think they should clarify the difference between Site Plan and Subdivisions. I don't think this should cover subdivisions.

G. Lake: Okay. Anybody else from the Public before I close this Informational Public Hearing?

MOTION to close this PUBLIC INFORMATIONAL HEARING at 8:07 P.M. made by R. Carr and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

G. Lake: I will go through the Board.

A. Dulgarian: I understand the concept like if something has been on the books for a long time, they have it in their hands and it's twenty years down the road. In the meantime, the dynamics of the

neighborhood has changed, the traffic, different regulations have changed. We would then handle that project totally different today than we did twenty years ago. So, there has to be something to protect the Town and it's residents but I do think they have a little more homework to do on this. As it's drafted now and what everybody has brought up there are some issues. Again, I understand the need but I think it needs to be worked on a little more.

P. Owen: I think it needs to be worked on a lot more. To just arbitrarily set time restraints like that, I would like to know the reason behind for those time restraints. I know a builder who worked on his house part time. It took him five years to complete it when he had the extra money and didn't get that Certificate of Occupancy for about five years. For someone like that to begin a home and then to have them told that they can't complete it just sounds wrong.

R. Carr: Mr. Owen just brought up a good point. I just can't imagine this can cover a subdivision. I have to believe that now. Those are separate lots. We had a case on Goshen Turnpike and I don't know if that's what caused this but where those townhouses are going in and was approved ten or twelve years ago. At that time we were given a number of cases that said that if any amount of intra-structure work was done that the Site Plan could not be revoked.

D. Brodsky: I've given you some of the cases, perhaps more current cases showing that there has to be a substantial expenditure. Courts are even handling them on a case by case basis.

R. Carr: That theory of substantial expenditures.

D. Brodsky: That's the vested right theory.

R. Carr: So, are we even considering a law that a court is going to disregard?

D. Brodsky: That's why I suggested perhaps having this all apply to Building Permits rather than Certificate of Occupancies.

R. Carr: I think that's a good idea. It is something to consider. The other thing is, it's just totally impractical if someone has eighteen units completed and you say you can't continue.

D. Brodsky: As a practical matter, what's going to happen is because there is no recourse in the law to come back to modify the approval or get re-approval.

R. Carr: It also has nothing in the draft if there is a phased construction.

G. Lake: That's a good point.

W. Capozella: Just my general opinion is I would disagree with the time frames. I think the law

itself is kind of vague. There are a lot of questions. In saying that, I can see the possibility of something that was approved several years ago.

G. Lake: I have to agree with Mr. Carr and the rest of the Board, it would be nice if we could get a little bit more information to understand where this is coming from. A subdivision is one thing. I think when somebody has that subdivision, they have it. I think once it's filed, it's filed and it could be for a thousand lots or two lots. I think I'm going to ask my fellow members as a Board, and I will call Mr. Hamilton, if you have any further comments jot them down and call Mary Lynn and maybe we will get together with Mr. Brodsky and get something to the Town Board with everything that we've talked about. I don't know how much time we have.

D. Brodsky: Maybe send the Town Board a memorandum because I think that's a good place to start regarding a lot of the issues that were touched on.

G. Lake: I'm almost positive everyone received it but if you could send it out again.

D. Brodsky: I will re-circulate it.

Informational purposes only.

4. **SCHLEIER** - 3 LOT SUBDIVISION (FINAL APPROVAL) - Derby Road (21-1-44) #77-04

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 started off as a four lot subdivision quite a while ago. With the moratorium, this works us down to the two new lots and the remainder of the property. We had a Public Hearing and everything was taken care of. We're waiting for the weather to break to take care of the septic system design. That was done by Eustance & Horowitz this past week. We should be getting a letter in the mail from them shortly. We're here for a Final Approval on this three lot subdivision.

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

D. Yanosh: Yes I do.

G. Lake: Why don't you go through them?

D. Yanosh: We can show the wetlands from the mapping on sheet #1. We have no problems doing that. Orange County Planning Department, the last correspondence we got from them which was dated February 10, 2005, I went down and talked to Richard Jones about the project. He was confused about what was going on with it and it took no exceptions to it.

G. Lake: Did you send him a letter?

D. Yanosh: I went down to see him. I talked to him personally. He sent us three letters back that were really contradictory in itself back and forth so we met with him. All we're doing is two new lots here. He was okay with that. The significant trees, there isn't too many out there. Most of it is old field. The trees that are shown are where the stone walls are. There's one on lot #2, shown on sheet #2. The rest of it is second growth. I put a note on the plan, note #1 on sheet #2 talks about the existing large trees and stone walls to be preserved. The fifty foot right-of-way I can give a copy of the deed and a copy of the filed map for the Attorney to look at. We can't put a road there. It's not owned by us. I know Mr. Lippert wanted us to show the widening of the road. We do show that detail on sheet #3. The road widening grading and we also have a note #2 on sheet #2 which is fences and stone walls. We increased the size of the culvert to extend five feet past the edge of the driveway. We did tie it into the Town datum.

G. Lake: I will go through the Board.

A. Dulgarian: I have nothing.

P. Owen: No issues.

R. Carr: No issues.

W. Capozella: No problem.

R. Carr: Is it a two lot subdivision or a three lot subdivision?

D. Brodsky: It's a three lot subdivision.

A. Dulgarian: To meet the moratorium requirements.

D. Brodsky: If the applicant comes in later to further subdivide, they are going to run afoul of the Planning Department request that the access be on an interior road rather than on the current public road, will they not?

G. Lake: I think two things can happen there. First of all, he has to do that then.

A. Dulgarian: Yes, but once he gets the approval for the driveway out on Derby . . .

D. Brodsky: Then, he's not going to be able to.

D. Yanosh: He took exception from all those comments before and he wasn't worried about my driveways coming out that way. I do have note #12 on here and says that if a Town road is proposed all new lots will have access to that Town road. He approved the subdivision with no problem at all.

D. Brodsky: I agree that it's not an issue now but what I'm suggesting is that you may be creating a potential issue if you come before this Board and the Planning Department states the position that you should have had access over an interior road.

A. Dulgarian: My opinion is we will deal with it then. He is making the most out of the rules that were laid down by the moratorium. He's meeting all the requirements we have now and I understand what Mr. Brodsky is bringing up is a valid point but he's working within the parameter of what he has. We can cross that bridge when we come to it.

G. Lake: Do you have any problems with that?

P. Owen: I agree.

MOTION for FINAL APPROVAL subject to all comments made by A. Dulgarian and seconded by W. Capozella.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

5. **DUCHESNE** - 2 LOT SUBDIVISION - Mt. Joy Road (60-1-65.1) #87-04

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

M. Siemers: My name is Mark Siemers with Pietrazak & Pfau.

G. Lake: Go ahead.

M. Siemers: The last time we were here we were looking for a Conditional Final Approval. Some issues arose with the mutuality of use and maintenance agreement.

G. Lake: Right.

M. Siemers: I believe it's all been ironed out. I will let Mr. Brodsky speak on that a little more. I spoke to him on the telephone not too long ago. Basically what I needed to provide on the map is a hatch over the fifty foot area on the one hundred scale up here and we need to work out the wording of the note to be placed on the plan for records which really isn't a problem. I also have Mr. McGoey's comments here.

G. Lake: Let's go back to the road again. You did talk to Mr. Brodsky about the easement?

M. Siemers: Yes.

D. Brodsky: There were a couple of things that still needed to be resolved, not in the formal documents that are being filed but on the map. This map is confusing as to where the open area development road is as to which properties have access to it. For example, if you look at the top drawing on the map, the notation of approximate open area development area road location and actually has an arrow that points to the driveway location but it doesn't identify the full length of the open area development road. It only is showing the improved portion of the road itself.

M. Siemers: Right.

D. Brodsky: I think we need to cross hatch that or in some other fashion identify that the open area development road is actually the fifty foot wide portion.

M. Siemers: The way I will handle that is I will hatch the area.

D. Brodsky: Note #10 refers to the rights of lots #1 and #2 to access over the open area development road. You also have another lot, 60-1-65.2 which should also be identified as having the same access. I think other than that we should be okay.

G. Lake: My only other question is also is there a maintenance already in place.

D. Brodsky: The agreements are not in place but the drafts have been reviewed by my office. They are acceptable. There are also license agreements being given to the other property owners for the Drago and Bernstein properties. I would like to handle those documents in the same fashion as we would handle an easement or a deed of dedication which is I will have them and then forward them to a title company that's going to file the map at a later point at your expense.

G. Lake: I just wanted to sure that two years, five years down the road the guy in the back can get

out.

D. Brodsky: Before the maps are actually signed I should have these signed agreements in hand so that I can forward them to the title company to be filed.

G. Lake: Thank you. Mr. McGoey's comments.

M. Siemers: Basically item #2 I've already changed that detail. I spoke to Mr. Lippert on the telephone a couple of times. I incorporated his comments into the last set of plans and sent them to him.

G. Lake: We have that note here that he's satisfied with the plans.

M. Siemers: There is a note in two spots, we show that we are tied into the Town's datum system. We do have Eustance & Horowitz approval. I'm sure you have a copy of it.

G. Lake: I will go through the Board.

A. Dulgarian: I have no issues as long as Mr. Brodsky is acceptable with us giving approval subject to his getting all the documents.

P. Owen: I'm fine with it as long as the agreements are worked out.

R Carr: Nothing.

W. Capozella: Lot #1, there's no note about no further subdivision. There's not much you can do with it anyway.

M. Siemers: If a future subdivision is planned we have to come back.

MOTION for a FINAL APPROVAL subject to all comments and all agreements being taken care of made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

6. **ROSSI RETAIL** - SITE PLAN/SPECIAL USE PERMIT - Bahrenburg Road (40-1-15.221) #85-04

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

D. Yanosh: My name is Dan Yanosh, surveyor for the project. We were here a couple of months ago with this Site Plan. We just revised it a little bit The use of the building is office space, retail. We're still in violation of the code that says landscaping provided fifty foot along the front, width and entire depth of both sides of the lot including any necessary driveways. Since we're surrounded by roads, Silver Lake Scotchtown Road, Bahrenburg Road and Route 17. We have Mr. McGoey's comments which we will take care. Only and if we go to the Zoning Board of Appeals for a variance, that's what we can do with this landscaping buffer since we're surrounded by roads. Again, I guess we're looking for a denial so we can go to the Zoning Board of Appeals. One of Mr. McGoey's comments was about sidewalks along Silver Lake Scotchtown Road.

A. Dulgarian: What side did we get them on?

D. McGoey: We're getting them on Golden Triangle site.

A. Dulgarian: Which is this side.

R. Carr: Isn't the subdivision across the street doing sidewalks?

D. McGoey: Yes.

G. Lake: I will go through the Board.

A. Dulgarian: I have no other comments.

P. Owen: Nothing right now.

R. Carr: I would just say that I like the project. I would like to see and it was also Mr. McGoey's comment, to see what the building is going to look like.

D. Yanosh: We were looking at getting rid of Bahrenburg Road and combining the land between us

and resolving the road itself but I guess

G. Lake: You have a problem because there's another land owner.

W. Capozella: I would like to see what the building will look like when you are done with the Zoning Board of Appeals.

MOTION to refer the applicant to the ZONING BOARD OF APPEALS made by W. Capozella and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

7. **NORSTAR ENERGY** - SITE PLAN/SPECIAL USE PERMIT - Fini Drive (41-1-108.2) #129-04

G. Lake: Your name for the record please.

L. Potter: My name is Lorraine Potter and with me is David Wieboldt, the Architect on the project. The project is located on Fini Drive. It is lot #2. It is in the M-I district. The proposed building is to be eighteen thousand nine hundred and forty square feet. Thirteen thousand will be for Norstar Energy. They are currently located on Route 211 and have an interest in relocating in this area. We provided parking on the site which meets the

regulations. The proposed five thousand square feet would be for a potential office rental space.

G. Lake: We're going to be setting your Public Hearing tonight. Did you bring the pictures of what we're going to be looking at?

D. Wieboldt: This is the elevation from Goshen Turnpike. This is the elevation from Fini Drive.

G. Lake: Is it one level?

D. Wieboldt: It's a one-story building. This represents the topography of the site and the grading back to the loading dock in the rear of the building. It will be approximately twenty four feet high to make use of some high storage in the warehouse portion of the building for the major appliances.

G. Lake: When you say major appliances, they sell wood stoves . . .

D. Wieboldt: Wood stoves, hot tubs.

G. Lake: Things like that.

D. Wieboldt: That's correct.

G. Lake: Let me go through the Board.

A. Dulgarian: This is next to Occupations.

G. Lake: This is going to be at the top of the hill on Fini Drive, right.

L. Potter: Right, at the top of the hill.

D. Wieboldt: It's across the street from Occupations.

A. Dulgarian: This is going to increase your square footage by how much? I have no issues at this point.

P. Owen: I think we can schedule a Public Hearing.

R. Carr: This area, is it paved?

L. Potter: Yes. Had a discussion with Mr. Carr.

R. Carr: Why is that?

L. Potter: It's for turning, for truck delivery depending on the size of the truck. They need to turn them around.

D. Wieboldt: The parking in the back is for the workers when they go out and do service calls.

R. Carr: How low is this area going to be compared to Weinert's in the back?

L. Potter: I'm not sure. We can take a look at that for you.

R. Carr: I really would like to see more landscaping on Goshen Turnpike.

L. Potter: We're in the process and we've contacted the County. There's actually a knob in that area, that's why the retaining walls are shown there. We're looking to see if we can re-grade that area within the County right-of-way to level that out which will give a little bit better availability for landscaping in that area.

R. Carr: Right now, that's all I have.

W. Capozella: Just for my own information, it is just the one entrance that you're going to use to get to the back of the building?

D. Wieboldt: There will be one entrance to Norstar but there also would be a second exit to the rental space.

W. Capozella: Where's that?

D. Wieboldt: Showed Mr. Carr.

G. Lake: Mr. McGoey's comments, I don't think we need to go over unless you see one you may have a problem with?

L. Potter: I don't have a problem.

G. Lake: Obviously you know that the Board has been big on landscaping lately. Fire Department comments. I believe the Highway Superintendent would like to speak to you about the drainage.

L. Potter: We did not receive any comments.

G. Lake: Mr. McGoey, are you going to need another work session between now and June 15th?

D. McGoey: Yes.

MOTION to schedule a PUBLIC HEARING for June 15, 2005 made by R. Carr and seconded by A. Dulgarian.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

8. **OCCUPATIONS** - SITE PLAN REVISION (Loading Dock) - 45 Fini Drive (41-1-77.1)
#25-05

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

A. Fusco: My name is Al Fusco. I'm representing Occupations, Inc. regarding the loading dock. They have submitted a request basically. They're looking to provide a better loading dock. Right now they have a facility that really isn't working for them. They do manufacturing. I don't know exactly the type of materials that they do but they do manufacturing on the site. They're loading capabilities are very limited. Right now they're backing into it and blocking off the access around the building. They are looking for a better loading facility that is also safer for their needs and also has a cover over it to make it safer for the employees. They comply with the zoning in relationship to side yard setbacks and things of that nature. We did have a work and did try to comply with all the requirements. We did receive back comments which were ordinary comments and not out of the ordinary for most projects. However, I did meet with Occupations Inc. They don't have the resources to be able to follow through some of the comments. They are a not-for-profit agency and want to put a loading dock up to better service their needs. They don't have the resources to do some of the extras such as the landscaping and things of that nature. In fact they asked me to try to describe the project. I thought I would come here this evening to see if there was a possibility if we could try to work something out so that they could get a better loading dock so it would be a safer facility and try to possibility work in the other aspects of it at a later date when they could possibly afford it with some fund raisers. I'm appealing to do for some waivers to some of the areas that they have burdens on.

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

A. Fusco: Yes I do.

G. Lake: Let's go through Mr. McGoey's comments to find out what you feel is a burden and then the Board can discuss it.

A. Fusco: Re-striping, we do need to do that because we are changing the parking so, we don't have an issue with the re-striping. Item #2, that's fine. We can show that on the map.

G. Lake: The handicap signs.

A. Fusco: That's just on the paper, so that's okay. Again, one of the things that we're not planning on doing is we're not planning on re-paving the lot but we will obviously have to do some re-striping. The dimensions we will show on the plan. We don't have a problem with that. Item #6 is the landscaping. That was one that we have some issues with. In relationship to the dumpster, they don't want to do the enclosure.

G. Lake: Where are the dumpsters now, then?

A. Fusco: They have them off in the back corner and I will show them on the plan but they didn't want to put on an enclosure.

G. Lake: Is it strictly?

A. Fusco: It's cardboard and that kind of that stuff.

G. Lake: Is it because it's a hazard of some kind?

A. Fusco: It's just that they don't have the resources to pay one thousand dollars for the fencing. Bulk table we have no problems with. No problem with item #9. They didn't want to pay for an extra survey to tie into the Town datum. It's really items #6, #7, and #10 that they have issues with.

G. Lake: This is a not-for-profit agency obviously. Do they have clients working there?

A. Fusco: Yes.

G. Lake: I know they have busses there.

A. Fusco: The clients work there every day.

G. Lake: How many workers do they have?

A. Fusco: I believe they have on average twenty workers give or take.

D. Brodsky: Is it a charitable not-for-profit or just a not-for-profit.

A. Fusco: I can't answer that specifically, I would have to say it's charitable not-for-profit. I would have to say some are handicap workers that are paid a wage and taught how to take care of themselves and they make like cardboard boxes and things of that nature and, that's their trade. They get paid a wage for it.

G. Lake: I will poll the Board. The building has been there a long time. The trees have grown up on at least two sides of it. Plus, I think I do serve a great purpose in giving people a real purpose in life

that might not have one if an organization like this wasn't there. I really don't have a problem. I will poll the Board and see what they think.

A. Dulgarian: What they're looking to do here is a very small portion of the building. I know Mr. McGoey tries to protect us the best way he can. In this particular situation I think we're improving upon they need there without having any negative impact. I don't have any issues.

P. Owen: It's a small change. I believe it is a charitable organization and I don't have a problem with waiving the three requirements for them.

R. Carr: I agree and also the area is well hidden. I don't know how you can turn a tractor trailer in there.

W. Capozella: I've done business with Occupations. The first thing they tell you is if you deliver something there make sure that it's a pickup truck or something like that. I know he is showing an eighteen wheeler. I don't know they would get one in if they ever did.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments except #6, #7, and #10 made by P. Owen and seconded by A. Dulgarian.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

MOTION for SITE PLAN REVISION subject to all comments except #6, #7, and #10 made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

9. **DR. ROMANO** - SITE PLAN - 18 Golf Links Road (78-1-42) #63-04

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

D. Yanosh: My name is Dan Yanosh, surveyor for the project. This was Dr. Levy's old chiropractor business office that he bought a couple of years ago. He wants to remove the existing building and put up a new one. The problem again is with the zoning, the same I had before with the Rossi Site Plan. We have two issues here. The rear yard is supposed to be fifty feet and the front yard is fifty also. You go fifty and fifty you're not going to have any room to put a building on there in the first place. Landscaping fifty feet also in the front and side. It's very difficult to get that on a small lot like this, an existing lot. So, we will have to go to the Zoning Board of Appeals to obtain some variances. He's talked to Mr. Garrison who owns on the north and east of him. Mr. Garrison has refused to sell him any property. He's talked to the Rowley's and the only thing they might sell him is a little piece here in the front along the side, along the southerly portion of his property. We have comments from Mr. McGoey which we will take care of.

G. Lake: Do we have to deny him or can we just send him to the Zoning Board of Appeals?

D. Brodsky: Just send him.

MOTION to send this applicant to the Zoning Board of Appeals made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

10. **DR. KUMAR** - MEDICAL OFFICE - SITE PLAN/SPECIAL USE PERMIT - 360 Crystal Run Road (60-1-122) #12-05

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

A. Sabnis: My name is Ashok Sabnis. I'm an Architect for Dr. Kumar. He would like approval in an existing building for a medical office at 360 Crystal Run Road.

A. Dulgarian: Is this in the old Taco building?

G. Lake: Yes.

A. Sabnis: Taco building, I don't know about that.

G. Lake: Mr. McGoey's comments. We're going to have to set you for a Public Hearing. Are you going to have any problems with his comments?

A. Sabnis: No, I don't believe so.

G. Lake: The Public Hearing is going to be June 15th.

A. Sabnis: Oh, we have to go for a Public Hearing?

G. Lake: Yes.

A. Dulgarian: I have nothing at this point.

G. Lake: What kind of office?

A. Sabnis: Medical office. This is a General Practice.

R. Carr: You're going to have a lot of trucks in with patients.

A. Dulgarian: What's the rest of the building being used for then? It seems strange to have a mix like that.

A. Sabnis: They go out before and do not come back until four o'clock.

R. Carr: The trucking goes out early and comes back?

A. Sabnis: They go out before nine o'clock and they do not come back before four o'clock. There is a time separation.

G. Lake: I will go through the Board.

A. Dulgarian: Nothing additional.

P. Owen: Nothing.

R. Carr: Nothing.

W. Capozella: Your not making any changes to the building?

A. Sabnis: We are not making any changes outside the building.

G. Lake: I have to tell you. I have to agree with Mr. Dulgarian and Mr. Carr on the two uses. I will be honest with you right now, up front, and it doesn't make sense to me to have a Doctor's Office and then a warehouse in the same building unless you can come back and show me some kind of separation of the parking lot some how. I've been out there and I've seen your plan. You have six spots off to one side which I think is way too less for a Doctor's Office. Just so you know right up front, I have reservations about this.

MOTION to schedule a PUBLIC HEARING for June 15, 2005 made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

11. **BARTOLI** - 3 LOT SUBDIVISION - Lybolt Road (12-1-21.223) #79-03

G. Lake: What are we doing with this?

D. McGoey: Bartoli had a problem with the monuments being too far away from the site and she is seeking a waiver.

G. Lake: How far away are they from that subdivision?

D. McGoey: I don't know.

G. Lake: I mean Pocatello Firehouse is a long way from the one we did tonight.

D. McGoey: Yes.

G. Lake: That's considerable.

D. McGoey: Maybe we should get a letter from her explaining the distance.

G. Lake: Otherwise everyone else will want to do the same. If we have to replace these monuments then we should do that. If that's the problem, that's a different story.

Planning Board to send a letter to the applicant for more information regarding distances from the nearest monuments, etc.