

TOWN OF WALLKILL PLANNING BOARD

MEETING

MAY 3, 2006

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

MEMBERS ABSENT: W. Capozella, P. Owen

OTHERS PRESENT: J. Bacon, P. Hines, S. LaBruna

1. PUBLIC HEARING 7:30 P.M. - **COUNTRYSIDE MEADOWS** - 14 LOT SUBDIVISION  
- Weld & Shawangunk Roads (3-1-23.2) #26-04

G. Lake: Public Hearing started at 7:45 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 May 3<sup>rd</sup>, 2006 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of TCT Corporation, 289 Ridge Road, Campbell Hall, New York, 10916 for approval of Residential Subdivision on Shawangunk Road, East of Weld Road under Section 249-19 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.

L. Torro: My name is Lawrence Torro with ARF Engineering. My name is Albert Pacione Jr., Counsel for the applicant.

G. Lake: Go ahead. Give us a brief description since you were here last.

L. Torro: The map that I put up on the board is the overall reality subdivision map. The overall parcel is approximately sixty acres and will consist of thirteen single family residential units. Each of the lots, the minimum lot size is three acres. The lots will all be served by individual wells and septic systems. Each of the lots obviously will have frontage off a newly created cul-de-sac road that goes through the center of the property. There will be no individual driveways out on to the existing roadways. There are some Federal Wetlands on the site, approximately seventeen acres. They have all been field flagged by a specialist. The Army Corp of Engineers has come out and verified that the delineation is correct and has been signed off on and those wetland delineations are shown on the map. Other than that, it is very straight forward.

G. Lake: Mr. Bacon, please come up. I just need to know what course to take. I will go through the Board before I go to the Public.

A. Dulgarian: After the Public.

H. Ross: After the Public.

R. Carr: I will wait.

T. Hamilton: I will wait.

G. Lake: At this time I will go to the Public. Is there anyone who wishes to comment on this application?

P. Owen: I live very close to Shawangunk Road and one thing I have always noticed is the entire area is wetlands. As you drive along and look this way and that way and all around there are wetlands. There are also a lot of beautiful large lots but my primary concerns are the wetlands. To me there are wetlands and are vital for our life. And, looking at the map I thought these houses are way, way too close to the wetlands. It might help if they cut out a few houses but I really think they should because there's a number of houses on the map that are way too close to the wetlands. Now, people don't understand about wetlands. All we have to do is go up to Brown Road and Goshen Turnpike where that new development is being put up. There's dirt all over the place. There's construction debris. I have allergies now and the last house. There is just too much dirt. Down there at that lake there, that looks terrible. You can't do this to the wetlands. We've got to stop someplace. So, I recommend that we not put all those houses up. Now, I have another question about those maps. Now, the map the developers had done, is that identical with the wetlands as to the water maps we have, the County map? Has anyone ever checked that out to see if those wetlands and everything are identified correctly on the two maps?

G. Lake: We will answer that when everybody is done.

P. Owen: Okay. One more thing before I finish. And, that's the road. Shawangunk Road coming out toward Goshen Turnpike, you can't see when you come out. We have people driving really fast. I've come out that road you're luck ends when you start out there's somebody speeding past. There's going to be a lot of bad accidents. Take my word for it. Remember the wetlands. They're out lifeline.

G. Lake: Thank you.

J. Walkoff: My name is Jay Walkoff. My wife and I live at 42 Shawangunk Road. And, this is the first we've heard about this. I don't know how long it's been in the planning. That's a little disturbing also to be quite honest. That's a topic for another discussion. Right now though, I would

like to talk about as the young lady also stated has to do with the wetlands. I think that's a vital concern for the project that's there or might become. I would like to see more information about how the developer can protect that. Second, the traffic is a concern to us on the road. Right now there's only a handful of homes. There's not a lot of traffic on that road. It's nice and quiet. My wife and I moved from Chester, the Whispering Hills Condo Complex because we wanted to get away from all the traffic, cars and noise. Thirdly, I would like to just mention that I don't believe that the road in it's present form and the road conditions can support much more traffic right now. It's very difficult for two cars to pass each other on the road right now and if they're going to have thirteen homes in there with probably two cars each if not more all the traffic and the road conditions need to be addressed as well. I would hopefully like to find out what the intention is for all of those issues and all these concerns tonight. Thank you very much.

G. Lake: Thank you.

R. Kuhn: My name is Robert Kuhn. I live at 81 Shawangunk Road and probably the newest member in the neighborhood having just moved there. I would like to echo what Mrs. Owen mentioned about wetlands. I notice that the entry to this new property is talking about a cul-de-sac road that they would have to limit the curved entrance to. Right next to that is a pond and designated as wetlands. I've see the blue tape on it. If they're talking about the new road there, you're talking being too close to the wetlands. That's a problem. The second thing is the road condition. Shawangunk Road is not even a full operating road right now. Basically it barely handles two cars going in the opposite direction. Bringing in thirteen new households with that volume at that entrance to Shawangunk Road, you've got problems. If you're going to build on this property you have to have an alternate entrance in there. A cul-de-sac isn't a sure thing. And secondly, my new house I came from city water. Now I'm operating on a well, I know I'm on border line pressure and thirteen new households in the same water area will cause problems with the water pressure I'm telling you right now. So, there's a problem with that. My neighbor had to drill seven hundred feet down to get his water. So, there's not a whole lot of water there. Thank you.

G. Lake: Thank you.

L. Cuba: My name is Lisette Cuba and I live at 75 Shawangunk Road. Start off on the last thing that Mr. Kuhn just said. I do know that when they went to drill our well they went seven hundred fifty feet deep. They had to hydro-fac the well. There's major settlement in the pipes and everything and I'm concerned about what's going to happen to our pressure in our house. It has a constant dirt smell. The road width and also Weld Road itself, that really when you come out going back towards the highway that road can't handle that flow of traffic. Something would have to be done with Weld Road also.

A. Cuba: People riding that road with a school bus coming by . . .

L. Cuba: You have to pull over. There's a really bad turn there by the big red house. That turn is awful in the winter. Coming out from Shawangunk Road on to Goshen Turnpike when you do pull

out of there people are flying down the hill from the Route 17K direction coming towards Shawangunk Road. It's very bad. Many times I've almost . . . because I've had to move out to see who's coming. This project will not handle the traffic there either. What is it going to do with the wetlands, our traffic, and our water. Thank you very much.

G. Lake: Your well, you said seven hundred feet deep?

L. Cuba: They had to go down seven hundred and fifty feet and then hydro-fac it to get the water.

G. Lake: Is that a fairly new well?

L. Cuba: Yes. We are what is shown as the map as (not clear) that's actually two lots now which is mine and Mr. Kuhn's.

G. Lake: Two new houses.

L. Cuba: Yes.

G. Lake: Okay. How about the other house, did that have to go down seven hundred feet?

L. Cuba: The one across the road, I don't know.

G. Lake: No, the other new house.

L. Cuba: I think that one had to be hydro-fac also. I know they went past it and they both had to be hydro-fac.

G. Lake: Thank you.

J. Dolan: I thank you for this opportunity. I've been blessed with thirty five years living on Weld Road. I must say that I walk every day now that I'm retired from thirty five years of teaching. Weld Road has turned into a speedway and the garbage. I'm not sure if it has been dumped but I did see two mallard ducks this morning down at the end of Weld Road and I do appreciate the wetlands that we have there. The turkey I saw yesterday in my backyard and the deer that we frequently see sometimes we don't always appreciate. I am concerned about the wetlands behind me because it's always been free space and right behind our property is flagged. I saw the blue tags that was referred to. I'm just curious as to what time of year that the professionals tagged these wetlands and if the markers are the same markings previously. The highway, as my neighbors have stated, is a real situation there. A young girl past our home last year and ran the pavement at the end of the driveway and a woman came down the roadway about seventy miles an hour and pushed her back into our driveway and continue to roll her SUV. We have a real situation in that area and the traffic, of course, in thirty five years is much greater. I don't like to say that I would want to limit other people from the beauty of Orange County and the Town of Wallkill because I appreciate living

there. We do need to be very cautious about what we do now.

G. Lake: Thank you. Mr. Hines, the wetlands? Kind of explain to the Public who flags it. Mr. Hines is an Engineer for the Town. I just want to make sure I don't get it wrong.

P. Hines: I can explain the process. During the Public Hearing I took an opportunity to review the file and I have located in the files the jurisdictional determination from the Army Corp of Engineers. They are the jurisdictional agency that regulates Federal Wetlands. The wetlands on the site are identified as Federal Jurisdictional Wetlands. Department of Environmental Conservation regulates wetlands under their program. The other wetlands are regulated by the Army Corp of Engineers under the Clean Water Act. The applicant's have, in fact last year, has a Landscape Architect, a wetland biologist identified as Mr. Thoregeson. He delineated the wetlands. They were confirmed by the applicant's representative and subsequent to that the Army Corp of Engineers. The Army Corp of Engineers field reviewed the site and confirmed the wetlands on the site and a revised map dated February 14<sup>th</sup> was submitted and accepted by the Army Corp of Engineers as a Jurisdictional Wetlands on the site. Those wetlands are depicted on the map and they have avoided any impact to the wetlands with the exception of a very small area right up near Shawangunk Road in the vicinity of the existing driveway. Everyone has what's called a Nationwide Permit. You're allowed to fill up to one tenth of an acre of wetland. Under the Army Corp of Engineer regulations additional permits for mitigation required.

L. Torro: And also, just to orientate. The proposed road is on the opposite side of the existing driveway. So, once that road is actually developed the existing driveway would be removed and that actually can sustain the wetlands that's associated with the pond. It's not going to increase it. Right now, the roadway will be built on the opposite side of the pond, the roadway.

P. Hines: Looking at the map the roadway proposed is a narrow area. They do not need a permit for the disturbance. The determination is in the file confirming the wetlands.

G. Lake: Thank you.

R. Carr: Can I just say something?

G. Lake: Yes, go ahead.

R. Carr: If someone has wetlands on their property and the house is there, are there restrictions from the Army Corp of Engineers, would they be in violation of anything if they do certain activities within those wetlands?

P. Hines: Yes. A tenth of an acre of disturbance of Federal Jurisdictional Wetlands has been in existence since 1987. Any disturbance of anything more than a tenth of an acre will require a permit. We typically require a note on the map identifying the fact that there are Federal

Jurisdictional Wetlands and that a permit would be required from the Army Corps of Engineers for any filling of those wetlands on the map.

A. Dulgarian: How is that policed? Is that by the Army Corp of Engineers?

P. Hines: It can be incorporated in the deed. Often when you need a site specific permit, not a Nationwide Permit, there's requirements by the Army Corps of Engineers when they issue their permit mitigation that it be included in the deed but because they've avoided the need for an Army Corp of Engineer site specific permit that requirement's not there but certainly something can be recorded. I don't know if the applicant is willing to put such a note on the plan.

A. Dulgarian: I think it's important to do so.

Unidentified Person: Can I ask a question in regard to that? The driveway is also disturbing an area of the wetlands.

P. Hines: There's three areas of wetlands identified as A, B and C.

G. Lake: Mr. LaBruna?

S. LaBruna: Just a note. I like the way it looks.

G. Lake: We did bring that up at a work session I believe. And, they opted to devote it to the new code and make bigger lots instead of taking the Conservation Subdivision.

S. LaBruna: That's entirely their choice.

G. Lake: That's my understanding, yes. We did present it to them and this is the choice they made. You will have to ask Mr. Bacon if he has any reference.

J. Bacon: The Board has applicants go both ways and then see which will work better.

G. Lake: If everybody remembers this came in before the moratorium. Now, I believe it meets the new zoning. We did speak to them about the Conservation Subdivision, they decided they would rather go with the Conventional. Mr. Hamilton, did you want to say something?

T. Hamilton: Just a question on that one tenth of an acre that they can disturb. Now, that was on the original whole parcel, one tenth. Now, what happens now that they're subdividing it into bigger lots?

P. Hines: Then you use the lot geometry that existed in 1987.

H. Ross: Are they too close?

P. Hines: It doesn't look to me as they're anywhere near to a tenth of an acre.

H. Ross: They're okay?

P. Hines: Yes.

H. Ross: I had a question about the other wetlands on the far side of the driveway.

P. Hines: The one on lot #9 and #10 has a gravel bed. It's hydrology connected.

H. Ross: I was looking in the wrong area.

G. Lake: Let me just ask. You took down a lot of the questions. Do you just want to go through the comments and then we will close this Public Hearing.

L. Torro: Sure. As far as the wetlands, I don't know if it needs any further explanation. Just one step further it matches the County map. You have to realize that's done with aerial photography where this is actually a field delineation, a lot more accurate. The issue regarding traffic, it was looked at originally where the roadway was proposed where the existing driveway is and in conversations with the Highway Superintendent and the Town Engineer it increased the site distance to meet the criteria of the prevailing speed, not the posted speed so it was moved further to the West. We now meet those requirements under AASHTO. The speed, obviously we have no control on that.

A. Dulgarian: What you found for the prevailing speed, you got down forty?

L. Torro: Yes. That was given to us by the Highway Superintendent. He provided that information to us. The site distance now meets the criteria at that speed.

G. Lake: What else do you have?

L. Torro: As far as the existing condition of Shawangunk Road, again . . .

G. Lake: Have you met with the Highway Superintendent on that?

L. Torro: I received his comments yesterday. All his comments I can address. It's the last sentence still, I'm not quite sure what he's talking about. He's talking about an off-site improvement to Shawangunk Road. I'm not quite sure. It talks about . . .

G. Lake: Rural Town specifications.

L. Torro: Obviously, it's a Town issue as an off-site improvement.

G. Lake: Yes, but that doesn't mean he wants it widened now but upgraded to a certain point. Mr. Hines, any chance of . . .

P. Hines: I believe Mr. Fritts from my office and Mr. Lippert have been out there.

G. Lake: It seems to me we've been asking them to widen the road in front of their parcel and push it back twenty five feet from the center.

L. Torro: I'm sorry. I'm not quite sure what the . . . I got the impression from his comment he's looking for a widening from our new road slowly out to Weld Road which is about sixteen hundred feet. If it's in front of our property, obviously it needs to be done. I just don't understand his comment.

P. Hines: They only have about five hundred feet of frontage.

G. Lake: It's something we will have to straighten out between now and Final signing, if we get that far. Go ahead, what else?

L. Torro: As far as the well, obviously we're in rock bed. As part of our approval our plans will have to meet the Orange County Health Department we need test wells. We have installed two test wells on the site. They're both around three hundred fifty to four hundred feet. I can get the logs to the Town Engineer's office. There's one well in the back that was rated about thirty gallons a minute. The well up front actually between lots #1 and #2 which is just behind the residence that spoke earlier about seven hundred foot wells, that well is down four hundred feet and the pump test averaged eight gallons a minute. A four hour test at eight gallons a minute. Again, the problem is when you're in the rock aquifer. We can provide that information.

G. Lake: You have actually drilled these test wells and you have actually pumped them?

L. Torro: Correct.

P. Hines: I think you require that under the Major Subdivision approval. The County requires a certain number of wells to be dug.

G. Lake: Right.

P. Hines: And tested for both quality and quantity.

L. Torro: Actually the test well locations that were chosen were picked by the County Health Department. The plan was submitted to them and they directed which lots they wanted the test wells on.

G. Lake: Okay, and that was done?

L. Torro: Correct. I think that basically covers the main issues.

A. Pacione: Just a general comment.

G. Lake: Go ahead.

A. Pacione: A sixty two acre parcel with thirteen proposed residential lots is probably a low density. It's a very low impact on density. There would be thirteen families that would like to enjoy the same thing that the members of the Public spoke before you tonight enjoy. A very low impact.

G. Lake: With a few challenges on it.

T. Hamilton: Did you check the length of the cul-de-sac?

G. Lake: Mr. Hines, Mr. Bacon, the length of the cul-de-sac?

J. Bacon: The applicant had their application before the Board prior to the adopting of the cul-de-sac law so he can move forward.

T. Hamilton: I think he only had sketch plan though. There was no Preliminary.

J. Bacon: The cutoff there was that the law talks about the application having been submitted. I don't think it said that they had to receive Site Plan or even Sketch Plan. It just talked about an application having been submitted.

T. Hamilton: The cul-de-sac law must have been different than the other zone changes that were made. Okay, I thought they all had the same law.

J. Dolan: You mentioned having a permit about if they ever wanted to make a variance with the wetlands. I will tell you that walking on Weld Road, there is a very serious problem with ATV's. Sometimes four or five at a time are running up and down the road. They go in the median between Route 17 and they cross over the highway. So, if there's thirteen homes what kind of regulation is for the ATV's running on the wetlands?

G. Lake: Again, unfortunately that's an enforcement problem and as far as there's no variances given on wetlands to my knowledge. The only thing he's talking is about something that came along in 1987.

J. Dolan: In 1987.

G. Lake: On the Army Corp of Engineers allowing a very small.

J. Dolan: I would just read into that by saying, that each home has an ATV or a snowmobile then what happens to the wetlands? That's a lot of homes and that's not very much water if you ever tested your well at eight gallons a minute. It's not a lot of water in that aquifer.

R. Kuhn: I'm following Mr. Carr's question of the Engineer about the effect of control of the wetlands. The wetland in question that we're talking about is no where one tenth of an acre.

P. Hines: The wetlands on the site are in excess of fifteen acres that's delineated. The disturbance in the front is one tenth of an acre.

R. Kuhn: The size is not the real issue. It is wetlands because it's been marked.'

P. Hines: It's definitely wetlands. It's been confirmed by the Army Corp of Engineers.

P. Kuhn: The control of it is in question here. I walk my dog out here every day and I see residue and trash in the wetlands right now. So, it's a question of control in any of the wetlands in this area is a very valid one. Whether it be a homeowner or a builder, it is a problem. In the wetland area right now there is trash in it and construction right across the street. So, that's a problem. I appreciate the two wells and the measurements that you came up but we're talking about thirteen and that's going to affect water pressure. So, I don't know the engineering standards or whatever but thirteen more wells in that area are going to be a problem. Weld Road, I understand Shawangunk Road has been widened from the entrance. I don't know if there is an intent by the Town to continue down Shawangunk Road but I tell you thirteen new families in a cul-de-sac it's going to go both directions the whole entire road needs widening not just down to Weld Road.

G. Lake: Thank you.

J. Bacon: You want me to come up and talk about the County letter.

T. Hamilton: Read that into the microphone, please.

J. Bacon: Just for the Public information, the Board received a letter from the County Planning Department and the suggestion from the County is that it would require a full statement pursuant to Section 239m of the General Municipal Law. Now, under that faction of the law the Board is required to submit a full statement of the action to the County prior to the Board taking any action. I think they have to do that. That's going to need to be done. It's possible that the Board could close the Public Hearing and still get that done but they may want to decide to continue the Public Hearing in the event any information does come back that might be necessary to review.

G. Lake: I was going to close the Public Hearing and then ask them to waive the time frame while

we got this straightened out. Would that achieve the same thing? It's up to the Board, obviously.

J. Bacon: It's perfectly legal to do it that way as well.

T. Hamilton: That is okay.

A. Dulgarian: And if anything major changes we would be able to re-open the Public Hearing.

G. Lake: Right.

J. Bacon: The Conservation Board would like to walk the property and if they came up with something that was substantial it would be reported as well.

G. Lake: We will close the Public Hearing and then we're going to ask for a sixty two day time frame waiver so we get this letter straightened out. I just saw it so I apologize.

A. Dulgarian: I have no problem with doing it and if there's anything that comes back substantial, we can re-open it.

A. Pacione: We have no problem with the waiver or the 239m submission.

G. Lake: Like I said, I just saw that and I have to apologize.

A. Pacione: May we get a copy of that?

G. Lake: Yes. We will get you a copy.

**MOTION to close this PUBLIC HEARING at 8:20 P.M. made by T. Hamilton and seconded by R. Carr.**

**A. Dulgarian: Aye**

**H. Ross: Abstain**

**R. Carr: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 4 AYES, 1 ABSTAIN**

G. Lake: Before we get into the waiver, Mr. McGoey's comments. Are you going to have any

problems with any of them?

L.Torro: No. Most of them are clarifications. That's fine.

G. Lake: You also have to get to the Highway Superintendent. Maybe we will get that last line of his straightened out between now and the time we get the County straightened out. You do agree on waiving the sixty two day time frame so we can figure out this letter.

L. Torro: Yes.

A. Pacione: Would it be possible to give us a date? Could we get on the next agenda by then? It's been a while and I can appreciate the Board.

G. Lake: I realize that.

L. Torro: It's just been a little over two years.

G. Lake: I realize that. I'm going to put you on but if you don't have the right answers we will have to take you off.

L. Torro: Fine. There's no sense in wasting anybody's time.

J. Bacon: I was going to say we don't know how long it's going to take to get the County letter resolved.

G. Lake: We will put them on June 7<sup>th</sup> and if he doesn't have all the information back, we will take you off.

L. Torro: What do you need from us to submit to the County?

G. Lake: The 239m Municipal Law.

P. Hines: It looks like they didn't get the long form Environmental Assessment Form.

G. Lake: We will give you a copy of this letter.

**MOTION to TABLE for further review made by H. Ross and seconded by T. Hamilton.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 5 AYES**

2. **GOLF RIDGE ESTATES** - Lot #8 (Extension to Preliminary) - Sands Road (14-2-13)  
#58-02

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

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

G. Lake: Go ahead.

J. Nosek: We're here requesting a six month extension to Preliminary Approval. We're still in the Orange County Health Department. This is the two lot subdivision of lot #8 of the original Golf Ridge Estates Subdivision.

G. Lake: Are you looking just for those two lots, or all fifteen?

J. Nosek: No. The fifteen was approved and filed. We came back for a further subdivision of lot #8 so, it's just for the two lot subdivision.

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

A. Dulgarian: No problems at all.

R. Carr: Is this the first one?

J. Nosek: Yes.

T. Hamilton: I don't have the subdivision regulations to check.

P. Hines: Subdivision is six month extension with two ninety day extensions.

J. Nosek: That's on final, correct?

P. Hines: Yes.

J. Nosek: Preliminary doesn't have it as long as we come back.

T. Hamilton: That's all I have.

J. Bacon: Did the request come in to the office in time?

J. Nosek: It was quite some time ago I did.

G. Lake: He's okay. I checked before the meeting.

**MOTION for a SIX MONTH EXTENSION to PRELIMINARY APPROVAL made by R. Carr and seconded by A. Dulgarian.**

**A. Dulgarian: Aye**

**R. Carr: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 4 AYES**

3. **WOLF** - 9 LOT SUBDIVISION - Miller & VanAmburgh Roads (31-1-19) #46-03

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

L. Marshall: My name is Lawrence Marshall from John Tarolli's office.

G. Lake: Go ahead. Tell us a little bit of what you want to do.

L. Marshall: This is a proposed nine lot subdivision on New York State 211, Miller Road and VanAmburgh Road. We met at a work session on March 20, 2006 showing a conventional plan and this was the map. Since that time we've shown a potential conservation subdivision map with several lots around and preserving some of the land.

G. Lake: Let me ask you something. The map on March 20, 2006 is that what is out there today?

L. Marshall: The map on March 20, 2006?

G. Lake: The map you had at the work session.

L. Marshall: The map on March 20, 2006 did not include the conservation area subdivision that's located on the area photos.

G. Lake: I think there's a site problem and you're going back to a work session. I was out there a couple of times and there's a considerable amount of fill. Now, I don't know how we can look at your septic, your deep hole tests. I don't know how we can consider any water conservation or runoff because there's actually no vegetation on what's out there today. I did go back out today to take another look. Really, I don't believe this map that you have in front of us was the one shown at the work session. This map I have here is what we saw at the work session. What's happening out there right now is just a totally different atmosphere. I think, I was looking out my truck today and looking up at the amount of fill. So, I think to save everybody a lot of time and really I think you need to go back and redo your survey. Bring in the proper co-product. I don't know how you're going to do test pits where you don't have virgin soil. I think the Orange County Health Department will make you wait around a year or so because this new fill will have to compact.

L. Marshall: This area that we're discussing, which area of the property, is it the area off of VanAmburgh Road?

G. Lake: The area off VanAmburgh Road and Miller Road, yes.

L. Marshall: To the . . .

T. Hamilton: When was the last time you were on the site?

L. Marshall: I was on the site, actually prior to the March 20, 2006.

G. Lake: I think you need to go out and take a look. There's standing water in a couple of spots. I'm sorry if I caught you off guard. I cannot ask this Board in good conscience to even consider this map compared what's there today. It's a totally different animal today. I don't know how much new fill is in now. There's no erosion control. There's no hydro-seeding. That's all part of the new conservation subdivisions and once an application is in you're not supposed to be doing that kind of work. That's very clear in our code.

J. Bacon: They're actually in violation of the law under SEQRA. It's a violation of the State Law.

G. Lake: I think you have to go back out and take a look and I think you will see what I'm talking about. I'm sorry if I caught you off guard but I cannot ask this Board to do action.

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

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 5 AYES**

J. Bacon: Mr. Lake, is the applicant going to make a representation to the Board of a feasible action on that site?

G. Lake: I think the action is being ceased on that site.

E. Jaques: A Stop Work Order has been given and it is being investigated.

A. Dulgarian: Did you just want to get something on the record, is that it?

J. Bacon: Yes.

G. Lake: I don't know. That's being handled through the Building Department. I don't know. If the Building Department feels about it, I think we can but . . .

E. Jaques: I think it's already been handled by the Stop Work Order being issued.

J. Bacon: You know, this Board as Lead Agency . . .

G. Lake: I think it's very clear in our code that it states if an application has been submitted, no work is to commence.

4. **BERMAN** - 13 LOT SUBDIVISION - Route 17K (5-1-3.21) #66-04

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

D. Yanosh: My name is Dan Yanosh in place of Mr. Rother who couldn't be here this evening.

G. Lake: Go ahead.

D. Yanosh: Sheet #1 shows the clustered development, the way it would be laid out in a cluster with fourteen lots.

A. Dulgarian: This is a cluster?

D. Yanosh: It would be kept off of Route 17K.

G. Lake: Okay, so you're using the conservation subdivision?

D. Yanosh: Correct. Sheet #2 shows a conventional subdivision with two acres, 2.2, 2.4.

A. Dulgarian: How many lots?

A. Dulgarian: Fourteen lots.

G. Lake: The cul-de-sac law?

T. Hamilton: We can give them a waiver for that.

P. Hines: The length of the cul-de-sac is 1,350 right now.

D. Yanosh: The cul-de-sac now is one thousand feet. I talked to Mr. Rother about that. He's in agreement that we could probably do something with the cul-de-sac and get some flag lots to go the back of the property by cutting the conventional one off short and do little flag lots to go into the back. Item #2, though, in your determination of lot count, it says the Board has the, to do a conventional to see how many lots you can do and then you do the conservation subdivision. But you have to final the number of lots shall be subject to Planning Board

approval or request an application of the applicant's submission during sketch plan review. I read that as saying let's cut this down to twelve. You still have the power to give the client fourteen, fifteen or whatever because you can modify that by this law.

T. Hamilton: Or ten?

D. Yanosh: True.

R. Carr: I'd have to look at that again, that we can actually increase . . .

D. Yanosh: I'm not saying increase but you can modify the number of lots. It doesn't say anything

about increase or decrease. We probably could get a little different layout by with the cul-de-sac we could go to the Zoning Board of Appeals and receiving a variance because of the situation that we have here on our lot. That's what we're looking for. We could get a variance from that law and when you look at the conservation subdivision we're keeping everything off and away from Route 17K. You won't see anything or anyone's houses from Route 17K. There is an existing house up front because of the way the ground slopes.

R. Carr: In looking at the conservation subdivision there's no question.

G. Lake: My question is he may have to get Site Plan approval. The cul-de-sac, the new law enforcement of one thousand feet. Where does that one thousand feet start because automatically when you do a conservation subdivision the road is probably out in the front.

R. Carr: So, we could waive that with a conservation subdivision. We can give that waiver.

D. Yanosh: The question was when the application was first made. It was before the moratorium. When he was here back then, the question was brought up about the conservation subdivision.

G. Lake: We need to look at it a little bit more yet.

D. Yanosh: Again, one of Mr. McGoey's comments was to make the lots smaller which would result in less road frontage. It would shorten the road up itself but again, the applicant would like to keep the lot sizes around one acre which is still a nice size.

A. Dulgarian: I don't want them any smaller.

D. Yanosh: He likes to keep them because no one wants a small lot.

R. Carr: How are you proposing that the conservation easement?

D. Yanosh: We will have to work that out as time goes on here. We still have Orange County Health Approval and things to go on. Hopefully, by the end the powers-to-be can figure out how we're going or regulate this.

A. Dulgarian: I don't think you can get to Preliminary. That would be one of my biggest concerns. Before we give any type of approval or any type of a nod, we have to know how that's going to be handled and who's going to be responsible.

G. Lake: Right.

A. Dulgarian: When he's talking about after Preliminary.

G. Lake: Right.

A. Dulgarian: But what we're looking at here . . .

G. Lake: The general talk has been a Home Association, etc. The planner, he had a couple maps where it was super long.

A. Dulgarian: Correct. I know there's other ways of doing it but . . .

G. Lake: I think right now we have to say to him with this being sketch, we think you're on the right track.

D. Yanosh: The house and the barn on lot #1 which has the 37.4 acres. They own the rest of the property. They would have the conservation easement themselves with no further subdivision and deed restrictions in there as to what they can do with the rest of that property.

T. Hamilton: The same with lot #2.

D. Yanosh: Wait a minute. Yes, the same with lot #2. You see, there is a conservation easement line on lot #2 right now. There's a conservation easement line on lot #1 right now. So, those two lots.

G. Lake: The problem is that the conservation area that is going to be left open green was not to go into one ownership but go to everybody that is involved in that.

A. Dulgarian: We're getting the same results.

G. Lake: That's something new.

A. Dulgarian: I didn't think about it.

R. Carr: Now, whether you're going to have some of these people have rights to go through there, I don't know if that would happen.

A. Dulgarian: I think all these applicants, I think as long as we gain the end result of the Town rules being maintained it doesn't really matter how it's worked out but if we have one doing it there's less decisions to be made. You have one person accountable. I have no problem with having one lot responsible for the entire thing.

P. Hines: In this case right now, it's proposed for two lots.

A. Dulgarian: Right.

P. Hines: Most of the time the deed restrictions will be enforced on all the lots.

A. Dulgarian: But, if you were looking for something for us to say he's going in the right direction, to be he's going in the right direction.

G. Lake: Mr. Bacon?

J. Bacon: This application came into this Board in 2004 and you know, the cul-de-sac law didn't come in until 2005. I don't think this will have to go to the Zoning Board of Appeals for a variance on that.

G. Lake: He does or he doesn't?

J. Bacon: He doesn't.

P. Hines: Yes. I have a record of appearance. He was here in October 6, 2004.

G. Lake: I will go through the Board.

A. Dulgarian: Nothing further.

H. Ross: I will say he's headed in the right direction.

R. Carr: Nothing further.

T. Hamilton: Nothing further.

G. Lake: I think the Board is happy to see this. I guess it's back in your ball court.

D. Yanosh: The number of lots is okay?

G. Lake: Yes. I think that was the intent to try and keep the green space and keep things off the road. I think you have our blessings with this and can move forward.

D. Yanosh: Again, lot #1 the intent is to keep it. They have some cattle out there right now. The intent later on is to have horses. It would be ideal.

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

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 5 AYES**

5. **ALTA EAST** - 2 LOT SUBDIVISION - Highland Avenue Extension (39-10-6) #10-06

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

D. Yanosh: My name is Dan Yanosh surveyor for Alta East.

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

D. Yanosh: We were here in July of 2005 with a Site Plan. We were going to do a two lot subdivision and a Site Plan during the moratorium. We couldn't do it because of the four units and the rest of the stuff so we decided at one time to go for a two-family house on the site. The applicant now wants to scrap that idea with the two families and come back with a simple two lot residential subdivision. Lot #1, .95 acres and lot #2, .96 acres. Single family homes on each lot served by Town water and sewer. It's in the R-1 zone. The only problem now that since the moratorium is over and they changed the zoning, the zoning now for lot width for the R-1 zone is one hundred feet and we fall short on both of the lots by 7.2 feet on each one of them. So, we would need variances from the Zoning Board of Appeals.

T. Hamilton: Is that the only variance?

D. Yanosh: As far as I can see. The lot size, depth and side yards are okay.

G. Lake: I will go through the Board.

A. Dulgarian: You're just looking to give him a referral?

G. Lake: Yes.

A. Dulgarian: I have no problem.

H. Ross: No problem.

R. Carr: No problem.

T. Hamilton: No problem.

G. Lake: The comments from Mr. McGoey, do you have any problems at this point?

D. Yanosh: No, not really.

G. Lake: The last one? If not then . . .

A. Dulgarian: Mr. Lake? Mr. Yanosh, do you have the side yards?

D. Yanosh: I do. The map is wrong.

P. Hines: I just saw that also. He will have to change the map.

D. Yanosh: When he brought that up I just noticed it.

**MOTION to refer the applicant to the ZONING BOARD OF APPEALS made by A. Dulgarian and seconded by H. Ross.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 5 AYES**

6. **SCENIC VIEW** - 2 LOT SUBDIVISION - Scotchtown Collabar Road (19-3-3) #47-03

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

L. Marshall: My name is Lawrence Marshall.

G. Lake: Go ahead.

L. Marshall: This is a proposal for a two lot subdivision located on Leaf Haven Court and also has frontage on Elise Drive. All the applicant would like to do is cut off the existing house location that's labeled as lot #3R that will access Leaf Haven Court in the west of the parcel in the rear. Elise Drive has recently been accepted by the Town making this a Town road. Lot #8 having Town road frontage on Elise Drive we do not show it as being a building lot at this time because of the potential for a subdivision, the applicants just wish to be able to sell off lot #3R and keep the back parcel, lot #8 for future development.

G. Lake: Okay. Between now and the Public Hearing, the back parcel. Now that you want to come off the other road, you're going to have to show us what you can do with this proposed road.

L. Marshall: The possible future road?

G. Lake: Right. And, what ever lots may go back. We always do that.

L. Marshall: So you want a potential build-out?

T. Hamilton: Can I just read the Highway Superintendent's comments. Looks interesting, the intent of the possible future road will have to be explained before I offer further comments.

G. Lake: I would suggest you get back to another work session on this just because of that. You need a Public Hearing anyway.

**MOTION to schedule a PUBLIC HEARING for July 5, 2006 made by A. Dulgarian and seconded by R. Carr.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 5 AYES**

7. **MASONIC CREEK** - 8 LOT SUBDIVISION - Silver Lake Scotchtown Road (40-1-17.4) #26-03

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

L. Wolinsky: My name is Larry Wolinsky with Jacobowitz & Gubits. I'm here again with Lawrence Marshall who is with John Tarolli. I'm just here to basically give you the background history. Mr. Tarolli is away on vacation. This was a subdivision that the Board was reviewing when the moratorium was enacted. We have gone back and forth on the subdivision quite a few times. We have done a traffic study with regard to issues with the driveway access and site distance, etc. which is still part of the record. The moratorium did not change the zoning and the bulk requirements for this location. The subdivision is now re-configured as a, I believe, as a conservation subdivision. I will turn it over to the gentlemen from John Tarolli and let them give you the details.

L. Marshall: This appeared last winter, I believe at the March 20<sup>th</sup> work session. The plan that you see before you is very similar to the plan that you saw then. The only difference being that the conservation subdivision plan now shows the lots continuing through to the rear of the parcel so that each lot owner may have access and ownership to part of the Masonic Creek. That was the suggestion from the Town Engineer. That was the only change that was made from the last time.

L. Wolinsky: I just want to add on that note, there was a little bit of a discussion at the last hearing on ownership and control. I remember that I made a comment during the zoning about the issue of whether or how you would restrict in smaller subdivisions the open space because if you leave it open who's going to own it and who's going to maintain it in the future and who's going to pay the taxes on it and whether we need to create all these mini home owners associations across the project. So, I think that extending, in this case, and in each case where you have these smaller subdivisions extending the lot lines and giving each lot a chunk of the open space and then deed restricting it and by imposition of a set of

covenants and restrictions on the property is probably the best way to go so you have control in the future.

H. Ross: Not audible.

L. Wolinsky: I think what the Town has to come up with in these kinds of situations is what the appropriate set of covenants and restrictions should be on the preservation of this open space. In other words, what are you going to allow these property owners do back there? Can they put any

structure there? Can they cut a tree down? Can they do nothing? Can they maintain, dig diseased trees, things like that? So as we start pushing through the conservation subdivisions, we need to come up with some kind of a model that really lays out how the open space is going to get maintained.

R. Carr: I think that people tend to do what they will on their own property. One of the problems is it doesn't specify what you can do. That doesn't mean people will follow the rules.

L. Wolinsky: The question becomes whose property does it become. What will happen is if you have the developers hold onto it, eventually they'll never pay the taxes on it and it will go back to whoever.

G. Lake: Probably the County.

T. Hamilton: And, then the County will sell it.

G. Lake: I will go through the Board.

A. Dulgarian: First off, let me make a comment that I love looking at these maps from what we used to look at. Having said that, I think the only thing we've accomplished by going from a conventional to conservation here is trying to give that responsibility of that portion of the property to somebody. I don't know that it really follows what the intent of the conservation subdivision was in the fact where we get better aesthetically appealing more setbacks, all that sort of thing. I know there's different requirements in different zones. The only difference between this is who's going to be responsible for the property. Where did we gain the setbacks? Where did we gain more room?

T. Hamilton: Nothing.

R. Carr: Actually, it's almost the opposite. Under the conservation law, the lots are smaller.

A. Dulgarian: What did we really gain in the intent of what we were looking to do? I'm not knocking what we're looking at here. I'm just saying I don't know that we accomplished what we were hoping for.

L. Wolinsky: That's a fair point.

A. Dulgarian: That's all I have.

H. Ross: I would agree with that. The driveway cuts?

L. Wolinsky: We had been through that discussion extensively the first time around on this. We had, what our traffic study had recommended was some consolidation of the driveways on some of the

lots which would cut it from eight to four. But, I think at the end of the day when we went through it with the Board, I think everybody was more comfortable with each lot having it's own driveway. What we did was we effectively put the driveways together so in effect, it's four cuts if you look at it from a design point.

R. Carr: Between the conventional and the conservation subdivision, I prefer the conventional. However, I don't ever recall being totally satisfied with the traffic and I will review the traffic study that was done. I still think that it's just too many driveways coming out on that road right there. I will go back and look at it.

L. Wolinsky: The traffic study does recommend certain actions be taken, certain co-ordination with other developments in that immediate area with the extension of the terminus. Yes, go back and look at that.

R. Carr: I will go back and look at it.

L. Wolinsky: And see what John Collins had recommended.

T. Hamilton: I'm just looking through this to see if there's another way of getting in there.

G. Lake: Anything else, Mr. Hamilton?

T. Hamilton: Not right now.

G. :Lake: It's only here for sketch.

R. Carr: I think we went through this. There's no way coming off the other road, is that wetlands?

L. Wolinsky: Yes, it's wetlands and flood plain.

R. Carr: There's no way?

L. Wolinsky: No we can't connect. We looked at that.

A. Dulgarian: I just have one quick question. Where were we on sidewalks? Did we require them for Scotch Valley or was that across the street?

G. Lake: It surely is something we should check between now and . . .

A. Dulgarian: Right because it has to connect to something.

L. Wolinsky: In Mr. McGoey's last, before we went into the moratorium, in his comment letter he

said that the Planning Board should discuss the need for the applicant to contribute to sidewalks along Silver Lake Scotchtown Road although the sidewalks would be installed on the opposite side. You should go back to that memo also because we were fairly far along in the technical comments. There was also a traffic mitigation contribution.

G. Lake: Myself, I'm really torn on which way to go. This area down through here putting that many homes on that section of Silver Lake Scotchtown Road.

L. Wolinsky: Again, we waited for the Master Plan process to take it's course.

G. Lake: I fully understand that. I don't know. That section through there?

L. Wolinsky: Well, what I would ask the Board is . . .

J. Bacon: Mr. Lake, I don't know if they got a letter from County Planning.

L. Wolinsky: Why are these things submitted to the County so quick because we're just at sketch plan? It's ridiculous to go to the County at this point.

G. Lake: We've always just sent everything to them right off the bat. We get praised all the time by the County for doing that.

L. Wolinsky: You get praised by them?

G. Lake: They always say it's one thing we do right. We give them everything literally.

T. Hamilton: On that lot #8, that Federal Wetland line, I mean that little tiny spot where that house is going to go, how far away will it be from that line?

L. Wolinsky: It's close.

T. Hamilton: That person won't be able to do anything.

L. Wolinsky: We will take another look at that.

G. Lake: Okay, so you've heard the comments of the Board.

L. Wolinsky: So, we will come back to another work session, is that the best thing to do?

G. Lake: Yes. I think another work session will be good.

L. Wolinsky: Well, can we get copies of the individual Board members so they can look at that in

the interim? Maybe I will just give it to you and then you can send it back to me.

**MOTION to TABLE for further review made by A. Dulgarian and seconded by H. Ross.**

**A. Dulgarian: Aye**

**H. Ross: Aye**

**R. Carr: Aye**

**T. Hamilton: Aye**

**G. Lake: Aye**

**MOTION CARRIED. 5 AYES**

8. **WALKKILL MANOR** - SITE PLAN/SPECIAL USE PERMIT - Extension to Special Use Permit Approval - Silver Lake Scotchtown Road (50-1-1.2) #51-02

**Cancelled.**