

TOWN OF WALLKILL PLANNING BOARD

MEETING

AUGUST 3, 2005

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

MEMBERS ABSENT: H. Ross

OTHERS PRESENT: D. McGoey, Conservation Commission (2)

1. **LAKE VIEW ESTATES** - 7 LOT SUBDIVISION (Final) - Bert Crawford Road (53-1-2.21) #29-02

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

A. Lipman: My name is Alan Lipman.

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

G. Lake: Why don't you bring everybody up to speed since you were here last.

J. Nosek: Sure. We had received Preliminary Approval from this Board quite some time ago. Proceeded thereafter to go to the Health Department for the approval of the water main extension and then to the Department of Environmental Conservation for approval of the sewer extension. We did finally receive those approvals. I do have copies. I think copies were submitted but just in case. Subsequent to that, it was submitted to the Health Department for subdivision approval and sometime thereafter we did receive subdivision approval from the Health Department. With all our agency approvals in hand we are here before this Board for Final Approval. We did prepare the cost estimate, the bonding, the inspection fees associated with the road construction. I believe all that's been ironed out with the Town Engineer.

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

J. Nosek: Yes I do.

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

J. Nosek: The first one is a general comment. The second one is requesting to incorporate the comments from July 11th regarding the stormwater pollution prevention plan which we have no objection to. Comment #3 is requesting a revision date. Generally, after we get subdivision approval from the Health Department they don't want to see where there is a date on the plans. If I

put a revision date on it after Health Department Approval, I have to get the map re-approved so we generally don't put revision dates on after Health Department has approved.

D. McGoey: We will (not clear).

J. Nosek: The Highway Department should review the revised plans. We did have a meeting with Mr. Lippert and there were a number of changes he requested and I believe the plans that we submitted reflect those changes. He asked us to put a trench drain and a positive slope to make it easier for the vehicles to get up the cul-de-sac for emergency vehicles and snow plows and so forth. Requested a thirty foot wide easement which we agreed to do and we revised the map to show a thirty foot wide easement. There were some other minor changes to details and has been changed. The lighting and drainage district, that has been submitted to the Town Board. The documentation has been prepared. It's been submitted to the Town Board. I'm not sure what agenda date it's on but it's expected to be approved sometime in the near future. I'm not sure why we need a chain link fence.

G. Lake: Was that on that one slope, a retaining wall around this house here?

D. McGoey: Yes.

G. Lake: Isn't there a couple of retaining walls in the back?

D. McGoey: There's a fence shown on the plan.

J. Nosek: I have no problem. I thought it was in reference to the pond. We will add that detail. The comment regarding the erosion control comments, we do have a separate stormwater pollution prevention plan. I had a couple of meetings with Mr. Smith. I think he's satisfied with our plans. Minor changes he requested but we accommodated his request. Item #9 is the stormwater pollution prevention plan which has been completed. I don't have any objections to those comments.

G. Lake: The only other thing, the Silver Lake Fire District has asked for a hydrant down in the beginning of the new cul-de-sac in this area.

J. Nosek: Had a discussion with Mr. Lake.

G. Lake: This road is pretty heavily traveled anymore. I think it's a pretty simple thing to keep them happy. I realize we got this late but they have a new gentleman reviewing.

J. Nosek: Okay, no problem.

G. Lake: Let me go through the Board.

A. Dulgarian: Can this be done subject to the stormwater pollution prevention plan being reviewed

and all that? We've seen it a lot.

G. Lake: I won't sign off on it until Mr. McGoey finishes his review.

A. Dulgarian: The actual Site Plan, we've seen this several times. I don't have any real issues with it.

P. Owen: I don't have any issues.

R. Carr: No, other than Mr. McGoey's comments.

W. Capozella: I had a comment about, I know you started to explain it but I didn't catch all of it, the proposed ten foot right-of-way driveway easement. What is the purpose of that on lot #7?

A. Dulgarian: You may not have been on the Board back then.

W. Capozella: I looked at it and made a comment on it but didn't quite understand why.

A. Dulgarian: The driveway wasn't on his own property and they allowed for that instead of having to move it.

J. Nosek: We're giving him a legal right now to continue to use that driveway.

A. Dulgarian: Same with the other properties.

W. Capozella: That's all.

T. Hamilton: It's been around for a long time and it's been worked on. I have no issues.

MOTION for 7 LOT SUBDIVISION (FINAL) subject to all Mr. McGoey's comments and this Board's comments, also Highway Department comments made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

2. **FREUND** - 3 LOT SUBDIVISION (Final) - Van Amburgh Road (31-1-15.22) #137-04

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

J. Nosek: My name is John Nosek with Roger Ferris Engineering & Surveying. This is a three lot subdivision that I think the Board has seen this a number of times. We received, it was a little confusing. We thought we received Preliminary. We weren't sure if we received Conditional Final. Mary Lynn wasn't one hundred percent sure so we figured we would come back and if we had Final, okay; if we didn't we would request Final. We did receive the approval from Eustance & Horowitz for the septic systems. So, that's been taken care of. The only comment I think that's kind of outstanding is the location of the house on lot #2 which is the corner lot. The Board had asked us to move it back. Our concern was that we're quite a distance off the road right now and if I move it back any further basically it comes right out to the back porch which is wetlands and we would like to give them a little bit of a back yard before the wetlands which we cannot disturb.

G. Lake: You did receive approval? Mr. McGoey, do your records indicate an approval?

D. McGoey: My notes show it was approved. It was approved on October 6, 2004.

G. Lake: Let me go through the Board.

A. Dulgarian: Again, it's been before us. I have no issues.

P. Owen: Had a discussion with Mr. Nosek.

R. Carr: No.

W. Capozella: Just a question, again. I think I did question this once before but maybe to refresh my memory on lot #1 the driveway cuts through the wetlands. I know we talked about the number ten percent disturbance.

D. McGoey: It's 0.9.

W. Capozella: Less than 0.9.

J. Nosek: And we call that the area of disturbance for each one and the summation of those do not

exceed 0.6 of an acre.

T. Hamilton: I have nothing.

G. Lake: Yes, Mr. McGoey?

D. McGoey: The Conservation Commission has comments.

K. Sumners: We just saw this recently. We did want to commend the engineer on the clearing and grading limits because they're very tight to the areas of construction and if, the first thing in their construction is to flag this so we want to commend them on that. We think that should be on every set of plans because it's an easy practice to do and it would save a lot of commotion. We just question a little bit whether the limits are realistic. For example, where the forced main frost is the wetlands, they show a four foot wide swath of disturbance and it seems it might be a little impractical. If you're going to dig that trench with a backhoe it's obviously going to be more than four feet. So, we're just suggesting that we make sure that those limits are realistic otherwise the first thing that the excavator contractor is going to have to do is to review the clearing and grading. We do think it's important that they be flagged in the field and can Mr. Nosek respond.

G. Lake: We will pass that comment on to the Building Department along with this. That way he doesn't have a choice. The Building Department will now your concern. That's probably the best way to handle that. Okay?

K. Sumners: Sure. We also just want to mention that the sequence of construction is good to have on the plans but we noticed that the sequence on this one was the same as the sequence on one of the other Site Plans. On these projects which are fairly simple it's not a big deal but on your complex project we would rather see a sequence that is tailored to each site as opposed to using the same one on each set of Site Plans. That's just a general comment. One other comment on this Site is it looks like the soils were a little different on the published map than what they have depicted on their Site Plan. I don't think it's going to affect the lots too much but I would just recommend that they revisit the published map and, especially in the corner where the lot #2 home site is being proposed, it looks to me like the soils on the published map are a little different.

J. Nosek: The soils on the published map I think are (not clear).

K. Sumners: The way I read it was a middleberry, 89 soils.

J. Nosek: Are we talking about lot #1?

K. Sumners: Lot #2.

J. Nosek: Lot #2.

K. Summers: I've got the published map here if you want to take it. I have the lots outlined on here.

J. Nosek: The numbers were taken right off the Town's.

K. Summers: I'm just saying, on the published map . . .

G. Lake: Hold up. First off, these comments we should have had already. They should have been forwarded to our engineer. Telling the applicant about that tonight after work session and work session. As a general note, I've extended to Sal LaBruna many times that we can get together if you had some good ideas as far as that you think a few things ought to be on the maps or other ideas that our professionals should be looking at. I have mentioned this to Mr. LaBruna many times that we're willing to do that. They do this and the percolation test we check them, our engineer checks them and they're checked again.

J. Nosek: And, our soils numbers are taken right off the Town's records.

G. Lake: And, I was coming to the soil type. Many times the maps, especially some of the older ones, I don't know how old the one you have, doesn't always show what's out there and then they have to go to the Soil Conservation. Any other comments?

K. Summers: No.

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

D. McGoey: No.

G. Lake: Anything that he has brought up, do you think it will affect this applicant?

D. McGoey: No. There's no construction proposed in those soils and no septic systems. I don't think it will impact the accuracy.

G. Lake: Does anybody else have anything on this? Basically, all you said they got was . .

M. Hunt: Preliminary.

G. Lake: Did we do the Negative Declaration?

M. Hunt: Yes.

MOTION for 3 LOT SUBDIVISION (FINAL APPROVAL) subject to all comments made by Mr. McGoey, this Board and the Conservation Commission made by T. Hamilton and

seconded by W. Capozella.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

3. **GLOBE CONTRACTING** - SITE PLAN - Stony Ford Road (61-1-20.2) #31-05

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

J. Tawil: My name is Jacob Tawil I'm here for Globe Contracting.

G. Lake: Okay. Go ahead. Give us a rundown.

J. Tawil: Sure. I'm proposing to have a construction storage on this property. One will be fenced. The other one will not be fenced. I've already had one work session with your Town Engineer, the Planning Board Engineer. We have shown a fence on one. The other one will have an addition on the other side of this.

G. Lake: Storage, what kind of construction equipment?

J. Tawil: Construction equipment. Backhoe.

G. Lake: Backhoes, etc. What was the biggest piece of equipment, any big graders or bulldozers?

J. Tawil: No. Small dump truck, a backhoe. That's basically it.

G. Lake: I will go through the Board.

A. Dulgarian: I don't know. Please come back to me.

P. Owen: Based on Mr. McGoey's comments, I see concerns.

R. Carr: I question this proposed use right here. It's right on a stream. It looks like all wetlands. The only place that didn't have wetlands you would have to take down the trees. I question how this is intended to be zoned. I know you had said that the Slaughter Farm is going to remain M-I but I had thought that Stony Ford Road was going to be mostly RA. It just seems like a weird, a strange use going along the stream there and the wetlands. You're right on top of the stream. I'd be curious as to comments by the Conservation Committee. It just seems like a strange use right there. That's my first impression.

W. Capozella: I would have to agree with Mr. Carr at least on the vegetation on that particular lot and the way it's laid out. This doesn't really show us much of anything even though when you look at it, it looks like there is a lot of wet area where he is proposing this. In terms of the approved usage for this, again to have heavy equipment out there on the road, it would need to be camouflaged basically from the rest of the area. That would be my concern.

T. Hamilton: I agree with that. In fact, we have a note here about the Planning Board should advise whether an equipment storage area can be approved with providing fencing. Fencing is prohibited in the flood way. We need a legal determination on this.

G. Lake: I'm going to agree with Mr. Carr on this. What I question is do you have enough buildings to keep supplies in. I know he's going to put a storage trailer there. I also question the use out there. How many trips a day would be made in and out of there a day?

J. Tawil: Once a week, if even that.

G. Lake: This is one of the zones that I'm not sure if this is changing or it isn't going to change. There are a lot of wetlands. I would like to see the Conservation Committee look at this and go back to our Engineer. We do have a couple of legal questions. Unfortunately we are without legal counsel tonight because of a change that was made.

D. McGoey: Mr. Chairman, the Conservation Committee has a couple of comments.

G. Lake: I don't think . . .

D. McGoey: You want it in writing.

G. Lake: I think I would like to get that back in writing to you Mr. McGoey. So, when they do come back to a work session, if they decide to come back. We can't do anything tonight because we are without an attorney. I don't think, this is just in the sketch stage, I don't think the Board is in favor at this time. Mr. Dulgarian, you asked me to come back to you.

A. Dulgarian: Yes. Everything has been covered. I kind of question the use and what we're going to establish in that area. Also, when we have construction material and stuff like that I think we would be opening up a whole can of worms there and it's pretty rural out there. I don't think it good planning.

G. Lake: Anything else?

J. Tawil: If I may, it is just for storage. It's not going to be a construction site. It will be a storage area for construction equipment.

G. Lake: Right. I think everybody realizes that. For one, I think we do have a couple of legal questions about it and we do have a little bit of concerns on the wetlands. I would rather see it go back to another work session where we can get the Conservation Committee's comments in writing so we actually have that. Again, there's a couple of legal questions and unfortunately we are without our attorney tonight. It doesn't happen very often but unfortunately tonight we are.

T. Hamilton: Just one . . .

G. Lake: Go ahead, Mr. Hamilton.

T. Hamilton: Mr. McGoey, now he's showing sites on both sides of the road now. Are these actually two separate lots then, that he's before us to?

D. McGoey: Yes.

T. Hamilton: Each one's got to be able to stand on it's own but what is he looking for, is it two different approvals?

D. McGoey: I think this is another matter for the attorney.

T. Hamilton: Slaughter Road goes right through the middle and he's showing storage on one side of the road and then he's showing another lot on the other side of the road. Is it one application or two application's?

G. Lake: An actual road is a natural subdivision.

T. Hamilton: Yes. That is something else we need to ask from the attorney.

G. Lake: I would say, that would have to be for the attorney. I would say, you're right Mr.

Hamilton, I think it's two separate sites on two different lots. I'm going to recommend to the Board that we table this for further action at this time until we receive from our attorney proper advise. That's only fair to you.

MOTION to TABLE for further review and send it back to another work session made by T. Hamilton and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

4. **ABSOLUTELY FLOWERS** - SITE PLAN REVISION - 265 Dunning Road (53-5-2)
#29-04

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

A. Laput: My name is Mr. Laput from Fellenzer Engineering. Plans are being proposed to combining a couple of parcels of hers with some additional buildings and parking. We have received some comments from your Engineer. The first of which is that the Zoning variance would be expiring September 2005. Should we get a variance for the parking requirements and we don't see the instruction so we're requesting an extension to that variance. Is that something I need to request from the Zoning Board of Appeals?

G. Lake: Yes. I would think so. That's the first time it has ever come up.

D. McGoey: Yes.

G. Lake: I don't think we can extend a Zoning Board of Appeals approval.

D. McGoey: Oh no.

A. Laput: So, we will be requesting that.

G. Lake: Yes, you're going to have to.

A. Laput: It's my understanding that photographs of the landscaping were provided. Do you have any of those in your mappings? We will be providing a one way sign in addition to the other signage and provide a fence detail. And, we're revising a road widening detail. Also, the retaining wall, we do want to maintain the curb cut behind building for a drive so we will be providing a retaining wall and the lighting fixtures we will be providing as well.

G. Lake: You have one more comment. There is an Orange County Department of Public Works. The last time you were here, the County made reference to your entrance and I can't remember what they said but, Mr. McGoey, do you remember?

D. McGoey: I have a copy of it.

G. Lake: Have you talked to the County since the last time you were here?

A. Laput: We have. I don't think we've received any confirmation of the comments.

D. McGoey: They requested some details, the cross section, the entrance with curbs. They needed an entry element.

A. Laput: So, we will still need a letter from them.

G. Lake: Well, have you provided them with anything yet?

A. Laput: We have provided the information.

G. Lake: When did you do that and you've gotten nothing back yet? Is that what you are telling us?

D. McGoey: This letter that I have is dated June 2004, a year ago.

A. Laput: I have that same letter, June 2004. I don't have any other.

G. Lake: So, I'm asking you since June 2004 did you provide the County with what they wanted on Dunning Road because the letter they gave us they had a lot of questions about that entrance and I believe your client was here even at that time. I know maybe you weren't involved but I think we need to know if the County has seen it or if you've given it to them yet or if you haven't there's nothing we can do.

D. McGoey: Mr. Lake, it looks like the plans have reflected but whether the County has seen it and approved it, I don't know.

A. Laput: I haven't talked to them directly but someone in the office is doing that. I don't have the record.

G. Lake: Let me go through the Board.

A. Dulgarian: Well, first off (not clear). I know that left coming off of Route 211 onto Dunning Road is a pretty dangerous situation but it is pre-existing and I don't want to take it away from them. I really don't have any other issues.

P. Owen: It's a tough site to work with. I think they're making it better as far as the entrance, as to where it will necessarily be located. It may possibly be down Dunning Road a little bit further on the other side of the road. Like Mr. Dulgarian said, it's pre-existing and it is a tough site.

R. Carr: I agree with Mr. Dulgarian and Mr. Owen. If this were starting new, this would not be something that I would go for but it is pre-existing and I think given what exists there I think this will improve the situation from what's there now and at least we would have that entrance going immediately in.

W. Capozella: It's pre-existing. It basically looks like an improvement. Again, it's not the greatest working lot.

T. Hamilton: It's okay but the County has to sign off on it.

G. Lake: Right.

T. Hamilton: Back to that sign again, back even where it shows on his Site Plan here, it's even extended past his property line.

A. Dulgarian: I still would really like to know how that sign appears on that property for another business.

G. Lake: I have nothing further. We need to know from the County. We will do a subject to and you will have to provide that information to us before the plans are signed.

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

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for SITE PLAN REVISION subject to all of Mr. McGoey's comments, this Board's comments made by P. Owen and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

5. **ESPM LLC.** - 2 LOT SUBDIVISION - Shawangunk Road (3-1-10.2) #52-05

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

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

G. Lake: Go ahead.

D. Yanosh: It's a two lot residential subdivision in a Highway Commercial zone on Shawangunk

Road. Single family homes are allowed. We're using the RA zoning formula for the size of the lots. It's twenty thousand square feet under the RA zoning which is what we have to do in this situation. Two single family homes, one two acre lot and the other one is going to be 3.76 acre lot with it's own house, well and septic.

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

D. Yanosh: Sure. Gillan Road, we have sent a letter. My applicant's attorney has sent a letter to Mr. Ward July 8, 2005 requesting that they abandon that portion of Gillan Road through there and then turn it back over to us so we have access all the way out to the property. We do own a piece of property there, the Fair Oaks Park, LLC. a portion of the corporation and we are in that process of abandoning that portion of the road although it has nothing to do with this application right now. We have to finish up with Eustance & Horowitz on the septic. I don't have anything from Mr. Lippert from the Highway Department. I will take care of his comments. Clearing limits, I can show that. All trees over six inches I will try and preserve.

G. Lake: Are you going to save them?

D. Yanosh: There's a couple big ones out there that are nice.

T. Hamilton: Are you going to mark them so we can find them?

D. Yanosh: Yes, we will do that.

T. Hamilton: That's one our next items that we're looking to start enforcing.

D. Yanosh: If they're in the corners of the property and aren't going to be disturbed, you're really worried about them or you want everything over six inches marked.

G. Lake: I would say in areas where you will be disturbing, house, driveway and septic areas. Try and arrange that, is that what you're looking for Mr. Hamilton?

T. Hamilton: Yes.

G. Lake: I will go through the Board.

A. Dulgarian: Prevailing speed is forty on there?

D. Yanosh: Yes, forty or a little more.

A. Dulgarian: I have no real issues other than item #2 on Mr. McGoey's comments. They are nice sized lots, single family homes.

G. Lake: This Gillan Road there, that's not part of this property?

D. Yanosh: No, it's not.

P. Owen: It's not on this lot.

A. Dulgarian: That's a non-issue.

D. Yanosh: To be honest, they do own the small little piece on the other side to get to Weld Road. We have written a letter to the Town, Gillan Road had been abandoned for years.

A. Dulgarian: And, it has nothing to do with this project at the moment?

D. Yanosh: No.

P. Owen: No issues.

R. Carr: I have nothing.

W. Capozella: On the one hundred foot, right-of-way for the utilities, does the house have to be so many feet away from the actual power poles and that's what, like seventy five feet or something like that?

D. Yanosh: No, it's the easement. The easement, we show the poles.

W. Capozella: The poles, right?

D. Yanosh: Fifty foot either side. It's the easement that Orange & Rockland required to get in there.

W. Capozella: The flag driveway on lot #2 encroaches the one hundred foot . . .

D. Yanosh: I can change that a little bit.

W. Capozella: I'm not one hundred percent sure myself, I know some of them are pre-existing. If they're already pre-existing, you're allowed to cross the one hundred foot right-of-way. You can have a road right through it, if you wanted.

D. Yanosh: Good point.

W. Capozella: Again, I don't know if you do that whether you have to contact Orange & Rockland.

D. Yanosh: I will leave it off.

T. Hamilton: Nothing.

D. McGoey: I think the applicant should be aware that the Highway Superintendent may require an edge of pavement widening on Shawangunk if it's not wide enough.

D. Yanosh: I do show the detail.

D. McGoey: It's the pavement widening.

G. Lake: Why don't we add that and you can get in touch with Mr. Lippert before we sign off on it.

D. Yanosh: No problem.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments, this Board's comments and getting together with Mr. Lippert about the edge of pavement made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for 2 LOT SUBDIVISION approval subject to all of Mr. McGoey's comments, this Board's comments and getting together with Mr. Lippert about the edge of pavement made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

6. **LITTLE SCOOPS** - SITE PLAN/SPECIAL USE PERMIT - Shop Rite Plaza - 400 Route 211 East (54-4-1.2) #50-05

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

J. Smith: My name is Judy Smith.

M. Violetto: My name is Michelle Violetto.

G. Lake: Go ahead.

M. Violetto: We proposing, we're looking for approval for a Special Use Permit for an ice cream parlor catering to children and also children's birthdays. It's located in the Shop Rite Plaza on Route 211 East.

A. Dulgarian: Is it a franchise or something?

M. Violetto: Yes.

G. Lake: Let me go through the Board.

M. Violetto: Little Scoops is a franchise company based in Rockland County. It's the fifth location opening in New York/New Jersey area. It's primary business is children's parties.

A. Dulgarian: Why are they here?

G. Lake: You know what, it's probably more on a safety net.

A. Dulgarian: I have no issues. That use should be allowed in there.

G. Lake: And all the approvals in there have already been established.

P. Owen: No problem with it.

R. Carr: No problem.

W. Capozella: No problem.

T. Hamilton: When they originally came in, they got approvals for eating and drinking in that complex. It should be covered under that.

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

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

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

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

7. **HASBROUCK/FREEHILL** - 3 LOT SUBDIVISION - Silver Lake Scotchtown Road (24-1-23.2) #51-05

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

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

G. Lake: Go ahead.

D. Yanosh: This is a 37.72 acre parcel of land on the north side of Silver Lake Scotchtown Road owned by Mr. Hasbrouck. There is an existing house on the property right now. The existing lot is cut off of it right now, tax map parcel #23 owned by Fox. The rest of the property is vacant. It's farmland. It falls under a two lot residential subdivision, lot #1 and Lot 2 would be one acre a piece. The zoning is three quarters of an acre or one acre lots served by individual wells because they're not in the water district but we are in the sewer district.

G. Lake: How close is the water line, Mr. Yanosh?

D. Yanosh: I don't know. I looked at the water district once before. I know it's down the road on Goshen Turnpike and up on the corner. It's not in the district.

G. Lake: I know the property because we had a fire call. I have to assume that this property is surrounded by the water district. The big question here is are you subject to the moratorium because ...

D. Yanosh: If you saw me before, running back and forth. I talked to Mr. DePew and Mr. Valentin. They represent the law to say I can create three new lots on this piece of property. I think it's two. They said it was written to say three. Mr. Miller, the one we had two weeks ago, he said my Miller one is a fine subdivision. The two lots that we have proposed for Mr. Miller is under the moratorium. That's what the law was written for. I think if you want to talk to Mr. DePew or Mr. Valentin, they both left, that's how they wrote the law. I wanted to talk to the attorney about it however, he's on vacation. Again, they have said that.

G. Lake: But it said three or more.

D. Yanosh: They will not allow three or more. But they said, both are saying you can have this vacant piece of property and have three lots on it. In my mind, the two.

R. Carr: It's the way the law was written no matter what they said. The law said three or more dwelling units.

D. Yanosh: Creating. I'm creating two is what I'm saying here now. I have no problem at all.

R. Carr: Actually, aren't you creating the ability to do three.

D. Yanosh: I have an existing, what it is now I have an existing lot today which anybody can get a Building Permit for a house, so we're creating two. They're fine with that and have no problem.

T. Hamilton: Where does not exist now?

G. Lake: He's developing two. This is actually a three lot subdivision, and not a two lot subdivision.

D. Yanosh: I have a vacant piece of property now that's thirty seven acres. I'm creating two new lots and according to those two councilmen, that's how it was written.

G. Lake: I'm not going to argue that. I will go ahead and set the Public Hearing because it's a three lot instead of a two lot.

D. McGoey: We should probably get an interpretation.

MOTION to schedule a PUBLIC HEARING for October 15, 2005 made by R. Carr and seconded by W. Capozella.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

8. **STONY FORD FARM** - LOT LINE CHANGE - Stony Ford Road (61-1-39.21) #35-05

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

N. Zeffiro: My name is Nancy Zeffiro.

J. Czu: My name is Jeanette Czu.

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

N. Zeffiro: We're looking for a lot line change. We're buying an acre from Mrs. Czu from the Stony Ford Farm.

G. Lake: Mr. McGoey? Can you show us where this is?

D. McGoey: Showed the Board members.

T. Hamilton: That's going to make that lot two acres then.

D. McGoey: Yes.

T. Hamilton: It says right here that it's going from one to two.

J. Czu: Right.

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

N. Zeffiro: Yes I do. I have revised plans.

D. McGoey: Why don't we just go through these.

N. Zeffiro: My engineer sent these.

D. McGoey: We're asking for the septic system to be reviewed by Eustance & Horowitz. That's standard operating procedures.

N. Zeffiro: That's no problem.

D. McGoey: How do you propose to handle the encroachment of the parking area on the lot and the shed because that would now encroach on the lot?

N. Zeffiro: We can leave that up to the attorney.

D. McGoey: If you're willing to grant an easement, I think this Board would generally say okay to that.

G. Lake: This is all existing yet as of now, right?

N. Zeffiro: As of now.

D. McGoey: Do you own the house next door?

N. Zeffiro: No.

D. McGoey: Who owns the house?

N. Zeffiro: Dawn.

G. Lake: A part of me, if you are going to continue allowing the driveway to stay and this shed in the back would stay, we probably would need some kind of an easement.

N. Zeffiro: We can draft that into the new plans.

G. Lake: Right. You're just going to have an attorney to do that. It can't just be written.

G. Lake: Let me go through the Board.

A. Dulgarian: I really don't have any issues as long as Mr. McGoey's comments are taken care of. I don't see where this lot line change is going affect anything as far as visual impacts or anything. We just have to make sure that the other issues are addressed.

P. Owen: Other than the technical review comments, I don't have anything else.

R. Carr. Just Mr. McGoey's comments to be taken care of.

W. Capozella: I have a question, since they're doing the lot change and then it affects the existing barn and the driveway, right? To me, it seems, we went to the trouble doing it and then you're going to give an easement just to encroach. I don't know. It just seems like a bunch of legal mess really to go through rather than just re-draw those and move them.

R. Carr: I don't think those two lines are being moved.

W. Capozella: They're not going to move.

R. Carr: Those are the existing lines.

W. Capozella: But yet it's going to be encroaching on that back.

R. Carr: That's a different piece of property. It's not a piece of the applicant. I had the same thoughts, Mr. Capozella. Then I realized we couldn't.

T. Hamilton: I don't see a problem. It's pre-existing and those lines aren't changing. The only line that's changing is over here and has nothing to do.

G. Lake: We will ask that they straighten that out with an easement. Mr. McGoey, did you have something else?

D. McGoey: Just the site distance issue. We have to satisfy the Highway Superintendent.

N. Zeffiro: Okay.

G. Lake: We will need the prevailing speed out there.

N. Zeffiro: We do have revised plans. I also have your letter dated July 25, 2005.

D. McGoey: Yes.

N. Zeffiro: It's all here.

D. McGoey: Just give it to Mary Lynn.

N. Zeffiro: In order for me to do this and go ahead and finish the stuff, I needed to have a lot line change.

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

A. Dulgarian: No. I'm just wondering how far the proposed house is off the road.

D. McGoey: I would say one hundred feet from Route 211.

G. Lake: Okay, Mr. Dulgarian?

A. Dulgarian: Yes.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and straightening out some kind of an easement for the shed and the driveway made by P. Own and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for a LOT LINE CHANGE (Subdivision Approval) subject to all comments previously made by P. Owen and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

9. **ALTA EAST** - SITE PLAN/SPECIAL USE PERMIT - Route 302 & 17 (22-3-4.22) #88-03

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

J. O'Rourke: My name is John O'Rourke with Lanc & Tully Engineering.

G. Lake: Go ahead. I know we've had conversations with the State as far as I-86 happening. You have a ton of comments and it looks like you may even need a variance or something. Bring everybody up on the Board to speed and tell us what's happening.

J. O'Rourke: Sure. Over the last couple of months we have been coordinating with the Department of Transportation out of the Poughkeepsie office. We have now basically finalized the Department of Transportation plans for the ramp improvement in this area which is now shown. The property line which they intend to take and a temporary easement line which they also intend to take which would basically cover the grading in this area. These plans and the latest traffic report have been sent up to Poughkeepsie and to the Middletown office Department of Transportation for their final review. This basically reflects everything we talked about over the last several months. We've also added the turning lane on Route 302 from the ramp into the project site. One of Mr. McGoey's comments is curbs. We've added that now to include curbing along there. Everything else pretty

much stays the same as the last time.

G. Lake: The turning lane, is that going to be able to facilitate people continuing down Route 302? Everybody coming off the ramp, might not turn right there. Is that going to be able to, is it going to stop right at your entrance?

J. O'Rourke: Yes. It's going to stop right at our entrance drive.

G. Lake: What I'm asking then, how about the guy that gets trapped in there and wants to continue straight? Are you going to have it? I mean, I just think of a safety issue on how a guy can continue on.

P. Griely: Mr. Lake, the turning lane is for a right turn so you would have to get into that lane to get into our driveway. You have to come out of the through lane into the right turn lane and into the driveway. The plans were sent to the Department of Transportation because the only area that we were not clear how they wanted it handled was right at that terminus where the curbing would come back in. The design is you would physically have to change lanes to get into that right turn detail to get into our site.

A. Dulgarian: Even coming off the ramp?

P. Griely: Yes. Actually turn out into the travel lane and then into . . .

G. Lake: Okay.

P. Griely: It's not an acceleration lane. The question was, whether or not it was going to be curbed all the way back to that point or how they wanted to handle it. That is in conjunction with Mr. McGoey's comments about the curbing. It made sense that it would be carry all the way back.

G. Lake: I thought it was a turning lane coming off the ramp and then they would be in the right and then trying to get back out.

P. Griely: It would pick up right at the ramp.

G. Lake: Okay. No other changes then as far as . . . Why don't you explain to the Board, the flow once you get into the project for the two facilities?

J. O'Rourke: Okay. There's a main entrance drive which is basically with town specifications. It's a road where the driveway comes in and the first entranceway into the convenience store/gas station through here. Both vehicles and trucks, which is one of Mr. McGoey's comments with the diesel would come in this way to the pumps, service and then out the secondary entrance.

A. Dulgarian: You're co-mingling truck traffic with car traffic?

J. O'Rourke: In through this area, yes. If you remember we were in front of you several months ago I believe and pilot pictures and we discussed this.

A. Dulgarian: At this level or at a work session?

J. O'Rourke: No, it was discussed at the Board. And at that time we had shown the turning radius for the vehicles on this site. Remember we had photographs of the pilot done in Newburgh which was, in fairness, several months ago.

T. Hamilton: On another site.

J. O'Rourke: The rest of the vehicles will enter to the truck dealership repair and down to the road through a garage with parking in the rear.

G. Lake: I will go through the Board.

A. Dulgarian: Other than seeing a lot of comments and a lot to digest, I can't pick on any one thing. I mean, there's still a lot of issues.

J. O'Rourke: If the Board would like I can certainly go through Mr. McGoey's comments very briefly.

A. Dulgarian: With all due respect, how do you go through twenty plus comments?

T. Hamilton: It should have been done during a work session.

G. Lake: Let me finish the Board.

A. Dulgarian: Nothing further at this time.

P. Owen: I think there's a lot of issues. I don't necessarily think it's a horrible use. That being said, I think there's a lot of work yet to be done.

R. Carr: From the first time when I saw this I think this looks a lot better. I guess my main concerns outside of all of Mr. McGoey's comments, my main concern is still the traffic. It is not just traffic coming from Route 17 East getting on is how they get back and then cross again, make that left back on there. With the amount of traffic you would generate, that would be my major concern. I have no had a chance to go through your traffic study so, that would be my number one concern. My other concerns would be if it could handle the stormwater drainage and the landscaping be

appropriate. Other than that, somehow it looks a lot better.

W. Capozella: Initially I questioned, the truck dealership obviously is that meaning you're going to sell trucks out of there, right?

J. O'Rourke: Yes.

W. Capozella: So, we're looking at the parking spaces or what ever, how many truck you are going to sell and I don't know what the actual amount of space that is really going to be needed, whether a dealership is required to have so many parking spaces so that they're not over-flowing or how you actually arrange that. That was my original question concerning the parking. The vehicles will be parked outside, right?

J. O'Rourke: That's correct. We show thirteen large parking spaces in the rear. That would be for the sales.

W. Capozella: That's for them, okay. Do we need anything Mr. McGoey on the plans here for outside storage or anything to limit that or something along that line since it's a repair place also. I don't really care about the dealership but since they are having repairs.

D. McGoey: Motor vehicle repair requires a certain number of cars to parked overnight only.

W. Capozella: Right. Sometimes we put that on when it's a repair shop

J. O'Rourke: We can certainly note that on the plan.

W. Capozella: It's just something that I would like to see put on.

T. Hamilton: The same, what spaces are going to be where and the landscaping, we will have to have someone look at it because this is right on that ramp.

A. Dulgarian: It's very high up.

T. Hamilton: The refuse, I'm not sure if we can see those containers and so forth from that ramp. I would just like to see Mr. McGoey's comments straightened out and there's an issue with the variance.

G. Lake: The trucks, this is strictly for new vehicles, correct?

W. Fuerstack: New/used.

G. Lake: Are the repairs going to be made on Route 17?

W. Fuerstack: Yes it is.

G. Lake: So basically what's going to happen here with the new/used that you will be selling or repair, your storage will remain where it is now.

W. Fuerstack: Yes.

G. Lake: I just think that's important for the Board to realize that.

T. Hamilton: But he's doing repairs here according to this Site Plan.

G. Lake: Right.

T. Hamilton: Not doing the repairs at the old place and this is only for selling?

G. Lake: I think this is for repairs, selling. Storage is what some of the Board is worried about how it will be maintained along Route 17M.

W. Fuerstack: There's some storage there.

A. Dulgarian: Mr. Lake, are we able to do anything tonight anyway because of the variance issue?

G. Lake: I was just going to bring that up. It looks like they have to go back and re-apply for that variance for our records. The Conservation Commission, have you guys had a chance to look at this?

Unidentified Person: We just got it the other day. It's got a nice buffer on the wetlands. I'm sure there are still wetlands.

G. Lake: We're not going to take action tonight because they have to get back to the Zoning Board of Appeals, if nothing else. During that time, again, what ever you need let us know and then get it back to Mr. McGoey so we can incorporate it at a work session so Mr. McGoey will have your comments in his possession. Mr. McGoey?

D. McGoey: I just want to make sure everybody is okay with the sale of diesel with the amount of trucks that will be coming off Route 17 to fuel up and then going back out. I obviously have a concern for it. And the other thing, I didn't think the traffic study included any consideration of safety concerns we all raised out there particularly with the use across the street and the on/off ramp being so close. I'm not sure whether we should look at the traffic reports for accidents and see if they were related to the geometry or the turning lanes or what ever.

G. Lake: Unfortunately, it's just a wacky little intersection. I know, myself, I know you come off Exit 119 going West and you can't see past that bridge for some reason. Beside that, the whole thing is the business across the street.

P. Griely: We have requested copies of the accident reports. When we get those, we can review that. That was part of the reason for providing this turning lane was to get that traffic out of the thru stream. Once we get the accident reports we can look at that and see if . . .

G. Lake: I think with the Department of Transportation and I know this isn't your fault, I really think they should come down here and take another careful look at that intersection. I know they're studying it and everything but.

P. Griely: We met with them and showed them all the plans and we tried to get feedback.

G. Lake: I know Mr. Carr travels through it every day. I travel through it every day.

R. Carr: Something Mr. McGoey brought up, the truck traffic. There isn't enough of a turning lane and the cue goes back and it goes back into the intersection. I don't know how far these trucks, how many trucks, I know there will be a pileup.

P. Griely: There's some pictures that show coming off the ramp and then it's a left turn in. We're actually trying to fix the signal. Here, it's a right turn off and a right turn in.

R. Carr: The other problem is that they have to get back on.

P. Griely: No question.

R. Carr: I will tell you what, that's the main concern I have with this project.

P. Griely: We will try and get the Department of Transportation feedback and by then we will have the accident reports we were hoping to have for tonight.

J. Hluchen: I think what you have to keep in mind here that the pilot is a truck stop that also sells gasoline. We're a gasoline station/convenience store that sells diesel just like across the street also does. I think you're going to rather have the truck traffic coming onto one parcel rather than jacking across the street. This is a lot safer and this is a gas station. It's a gas station that sells diesel, not a truck stop.

R. Carr: Okay, granted. The thing is gas stations have traffic and I still think that the traffic is the number one issue.

J. Hluchen: Just to refresh, we're not a truck stop.

G. Lake: Anything else from the Board? You've heard the Board's new comments. You do have to get to the Zoning Board of Appeals. Mr. McGoey, I guess we can just let them go?

D. McGoey: I think they can just go to the Zoning Board of Appeals.

J. Cappello: We would like to just clarify. We will go for the extension even though I believe the gas station is the principal use and the sales is the accessory therefore, our principal use isn't in front. One issue that we believe that it's been addressed several times in the issue of the buffer. We had discussed that with the Zoning Board of Appeals and provided them the information and they said not only did we not need a variance or even an interpretation because it was pretty clear in the special permit what the requirement was for gas station buffer. We also presented that information to your attorney in November and discussed it at the November Planning Board meeting and at that point your attorney acknowledged that he agreed with our statement of the law and he said that was the minimum and that he wanted to see the landscaping, how it's screened. It came up in the comments again and that's one comment I think we can have knocked out.

T. Hamilton: Why wasn't it done at a work session and cleared up before you came back to us?

J. Cappello: Well, we did it at the last Planning Board meeting in November and then we did it at a work session and it's still in the letter.

G. Lake: First off, and again I apologize but we do not have our attorney here.

J. Cappello: Right.

G. Lake: To interpret that for us and then we do have a new attorney also. I do apologize for that. As far as the buffer goes, yes you're right. To the letter of the law you might be right but this Board historically sometimes has asked for larger buffers, greater landscaping. We've asked for renderings and what it's going to look like.

J. Cappello: I'm not arguing. I'm just reflecting on that specific comment raises the issue of the interpretation and we've already addressed that with this Board while your attorney was there and he said in the record, I agree with that. I would remind the Board that it's a minimum which is exactly what you said but that you still needed to review it. What we're saying is we don't need any variances for that. We don't need to go to the Zoning Board of Appeals for that. That's been determined now, we can just look at the practicality of what you see from SEQRA standpoint.

G. Lake: Again, I don't have an attorney here tonight. When he comes back, you will have to have

him look at it.

J. Cappello: Okay.

G. Lake: We will also have to get back to him.

A. Dulgarian: I believe the variance you got was for the canopy.

J. Cappello: Yes. The comment on the buffer came up and I wanted to clarify it now so that when we go back to the Zoning Board of Appeals.

A. Dulgarian: I thought you were concerned about the actual variance.

J. Cappello: My opinion is that every gas station you have in this Town has a canopy.

A. Dulgarian: I agree.

J. Cappello: But if you can certainly look at it and say well if it's a gas station, the principal use is the gas pumps and the accessory use is the buying a newspaper and a pack of gum and cigarettes but we will go back to the Zoning Board of Appeals.

G. Lake: That's a Zoning Board of Appeals question.

MOTION to TABLE for further review made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

10. **CUMBERLAND FARM** - SITE PLAN/SPECIAL USE PERMIT - East Main Street & Ridgewood Avenue (75-3-2) #43-05

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

R. Olsen: My name is Richard Olsen and I'm local counsel for Cumberland Farms. With me is the Design Engineer and the Regional Manager for Cumberland Farms. The proposal we bring before the Board this evening deals with an existing Cumberland Farms site at the intersection of East Main Street and Ridgewood Avenue. It's in your Highway Commercial zone as a convenience store and filling station. The proposal is to demolish the existing concrete block building which sits approximately here on the plan to expand the canopy. There's existing two pumps at this point. We want to add two pumps. We would like to move the building back. We would require variances of the fifty foot rear yard setback. We would be honoring what you call the twenty five foot landscape buffer which we would be proposing to put extensive landscaping right behind are some residences behind us. There would be additional site improvements including the tanks which would be upgraded. The pumps would be upgraded and additional landscaping on the site.

G. Lake: The building is it going to remain like the one that's is there now?

R. Olsen: It would be the new colonial style which we would be proposing for the site.

G. Lake: I will go through the Board.

A. Dulgarian: First, let me tell you this is my gas station. Now having said that, this is the worst place to get in and out of in the Town and I would not be in favor of having an addition to the canopy. I mean, if we're getting a fresh sheet of paper to start with, I would love to see those gas pumps moved. We went at looked at a proposed gas station across the street and we tried to park in their lot and we couldn't get in. The cars stack out into the road there. It's a terrible situation and it needs to be addressed and this is our chance to do our best. I think it's an asset to the community but I think we also have a shot to get it right and I think we need to take advantage of it.

R. Olsen: You would want to see the canopy moved.

A. Dulgarian: I'm telling you the distance you have from the pumps to the ingress and egress on both ends, the vehicles stack up out into the road and it's a bad situation. That's my only concern at the moment.

T. Hamilton: Especially when you're at the pump you can't even leave because of the stacking.

A. Dulgarian: That's the reason we were at the gas station across the street.

R. Olsen: We can have them review this again.

A. Dulgarian: Yes.

P. Owen: Yes. I feel the same way that Mr. Dulgarian had said. It really is awkward getting in and out. If we do it right now that we are having a fresh start.

R. Carr: My feelings are exactly like Mr. Dulgarian and Mr. Owen. The traffic is always backed up there. People sit in the parking lot because they just don't know who's going to leave and which way. If someone is waiting to get out at the light then it backs up. It's horrendous. I sat there for twenty minutes and I couldn't believe the stuff that happened. So, if we could redo that I don't know if this is a Cumberland Farms thing with the angle issue.

R. Olsen: No. The one was existing however, if you're indicating there's a major problem we will have the engineers review.

R. Carr: Okay.

R. Olsen: Because they have to redo all the pumping of the pipes anyway.

R. Carr: Okay. That's actually the whole thing. The other issue that I have come to determine is moving the building back to the tree line that's there. It's right up against the residents.

Unidentified Person: We recognize that. Right now the building sits much further up. Moving it back is going to help with the circulation to a degree. We don't want to infringe on the landscape buffer at all. We realize we're going to have to increase that.

R. Carr: Here it seems that you're going to remove all the trees, an existing portion of trees.

R. Olsen: There will be some clearing involved obviously to move the building back in position here.

R. Carr: How close to the . . .

R. Olsen: This is the twenty five foot landscaped buffer. We're not going to encroach on that and obviously we will have to increase landscaping behind it as a buffering to the residences.

R. Carr: I looked at it today and the trees that are there it didn't look like . . .

R. Olsen: We can give it a fuller analysis on what's there and what will be replaced.

R. Carr: Okay. Those would be my main concerns.

W. Capozella: Again, there seems to be things you can do with the layout. All the gas stations have issues. It doesn't matter what space you have, it's more of the layout of getting in there and getting the gas so you don't back up everybody and maybe a better flow of the traffic in the parking lot.

T. Hamilton: Do you have any of these variances?

R. Olsen: No. We would require the variances.

T. Hamilton: Did you see what the variances they are asking for? Moving that building back. The required setback in the back is fifty feet. They're looking to make it 27.9 feet so where are you leaving your existing buffer?

Unidentified Person: What we're also saying, you also require a twenty five foot landscape buffer. We're not going to infringe on that. The rear yard setback yes, we were going to request a variance on that to set the building back.

T. Hamilton: Okay. Maybe I'm misreading here. Because it tells me I see your proposed tree line. If you look at this here, I don't know what your scale is but you tell me the 27.9 is your building and your giving me. Look at how much you're showing me here that your leaving.

R. Olsen: We've added since then. Obviously some clearing will occur to build the building. There's an existing drainage way that runs through here also. That drainage pattern needs to be maintained also.

T. Hamilton: Besides moving the building back to twenty seven feet from the line where the zoning ordinance says it has to be fifty he's got to clear it even more to the property line.

R. Olsen: Again, we recognize we would have to increase landscaping behind the building as the buffer for the residential area. We do need to get the building moved back somewhat again. You're talking about the traffic concerns in here. The current building sits up almost to the canopy area at this point.

T. Hamilton: I think they're trying to jamb just a little bit too much into that. If I lived there and I know the zoning tells me fifty feet and it's pre-existing there and it probably meets now at that point where it is now and they're going to come in and increase the traffic flow and everything else on that parcel and cut down to a twenty seven foot setback to the building and they cut back on the landscaping also. I would be screaming.

G. Lake: Anything else Mr. Hamilton?

T. Hamilton: No.

G. Lake: The size of the building that's there now and the new proposed one, are they the same size?

R. Olsen: The one that's existing is twenty two eighty square feet and the proposed building will be thirty nine hundred.

G. Lake: So, you're really going up quite a bit. I've got to tell you, this site when it came in years ago they wanted to do the same thing back then and we knocked them back down because of the site. To this day I feel we kind of made a mistake back then for allowing it to be as big as it is on the site. I really agree with Mr. Hamilton as far as allowing that fifty foot buffer to disappear. I go down that way quite a bit. I don't think the neighbors have enough of a buffer behind you to be honest. I'm even uncomfortable right now with everything this Board said even sending him to the Zoning Board of Appeals for that variance because I think this Board. First of all, we don't have to accept it. We could still ask for the proper setbacks. The Zoning Board of Appeals may give it to you but this Board doesn't necessarily have to stand and live with it. I would think before I would even like to see you go to the Zoning Board of Appeals, I would rather see the plans re-worked. You know the issues with the traffic going in and out that Mr. Dulgarian brought up. I have to tell you with a building thirty nine hundred square foot building from twenty two hundred square feet when you were here maybe ten or fifteen years ago whatever it was and you wanted to have a thirty five hundred square foot building with two extra stores next to you and this Board didn't think much of it then. I just don't understand why and I'm assuming you guys are new, why you would think we would accept a thirty nine hundred square foot building on a site that is very tight already. That's my opinion. I will be real honest with you. I wouldn't be giving up the fifty foot backyard.

T. Hamilton: And add to that, on the side where it calls for the fifty foot, existing right now they have 52.1 and they're looking to go to 32.6 so they're even going to lose it on the side now.

G. Lake: I appreciate you're wanting to update everything. I appreciate you're addressing the flow of traffic. I just think it's tight site. Mr. Dulgarian, do you have anything else?

A. Dulgarian: No. I was looking at that one side yard, which is another front yard.

T. Hamilton: The other side is going down to thirty two.

R. Olsen: So, the Board is looking for an alternate layout then addressing the issues specifically on the canopy, traffic flow, and obviously whatever we do here is going to have to impact on the building somewhat but we will look at the encroachment and the fifty foot rear yard. I understand that's what the Board's concern was. If I can get some clarification because we do have some questions on this. Under your parking standards you refer to one per island. We have four islands, is that four or is it eight for the required parking? How do you interpret that?

G. Lake: Depending on how many pumps.

R. Olsen: Is it per filling station because your code says one per island. I just need to know how you interpret it.

D. McGoey: One per island which would be four.

A. Dulgarian: Is there a way to locate the building on the property so it encroaches the other commercial property instead of the residential property>

R. Olsen: We had looked at that before but maybe we will re-look with the changing of the canopy. The original plans we had some discussion about placing the building over here.

A. Dulgarian: The impact would be minimized if it was setback alongside the other commercial property.

R. Olsen: Obviously the original plan was to maintain the canopy where it was. The Board indicated that it was their preference to have the canopy re-aligned. We will have to look at the whole site and take a look to see if it can be re-aligned.

A. Dulgarian: I'm not saying it can't be done.

R. Olsen: Obviously we recognize the residential buffer is going to be a major issue.

G. Lake: Just call in and get on another work session. Copy of Superintendent of Highway comments given to Mr. Olsen.

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

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

11. **SALADINO** - 2 LOT SUBDIVISION - King Road (20-1-32) #36-05

G. Lake: Your name for the record please.

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

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

J. Nosek: This is a two lot subdivision on King Road with individual well and septic system with access directly off of King Road. At the last meeting there was two concerns. One major concern was to meet with the Highway Superintendent regarding access off of King Road. We did have a meet with Mr. Lippert out there. Basically what we agreed to do the right at the curb at the property line the site distance is really not that great in one direction but if you move it about fifty feet over you really can see quite far in both directions. We are actually creating an easement over that one lot to get to the point where we want to be for the driveway. We will go ahead and redo that. That's one of Mr. McGoey's comments is pertaining to obtaining the easement prior to the signature of the subdivision plans which we have no problem with. To answer the comments, item #1 is just a general comment regarding the Conservation Board asking for the verification that we don't exceed a tenth of an acre, which we will double check to be sure. Item #3 is in order to obtain final signature on the maps we need the easement prior to the issuance of the Building Permit. We will provide that note and we will obtain the easement. We have no objection to that. Item #4, the Highway Superintendent, he's pretty much indicated that stone walls within the twenty five foot right-of-way will not be permitted. Our plans do reflect them to be removed.

G. Lake: Just so the whole Board knows, I did talk to Mr. Lippert about that. He actually came to talk to me about it. It's really been the policy to clean out twenty five percent. I think he did talk to you about it. Just push it back and save some if you can.

J. Nosek: I don't know if it's really going to look that good if we push it back. We definitely have to kind of pick up and move it ten or fifteen feet. If you see the property out there it turns kind of wooded and there's some dips and valleys so, I think it's probably going to look better if it was just removed.

G. Lake: It does become a liability and it does become a safety issue..

R. Carr: You never have a country road and we're coming up with conservation and subdivision. We have thirty foot roads everywhere and it just seems ridiculous.

G. Lake: Mr. Carr, this is an existing road.

R. Carr: I know but the whole thing is we're going to get into a, are they going to widen the road?

P. Owen: They may not necessarily widen that road.

R. Carr: Why can't we have country roads in the country?

G. Lake: You're talking to the wrong person.

J. Nosek: It's cheaper for us to keep it there.

R. Carr: It's pretty rural and I don't understand.

G. Lake: I hear you.

J. Nosek: Item #5 the septic system approval. We do understand we need that. We will put the note regarding stonewalls to be preserved with the exception of the stonewall in the right-of-way. There's a note requested regarding obtaining all permits before construction starts. We have no objection to adding that on the plans.

G. Lake: I will go through the Board.

A. Dulgarian: Nothing.

P. Owen: I wish there were some way we could keep all the stonewall.

G. Lake: If you want we can write him a letter and ask him one more time.

A. Dulgarian: I think we should.

J. Nosek: I was adamant at our meeting that there were a few Board members that really wanted that stonewall. Again, we have no objection to keeping it.

R. Carr: Actually I don't think it will do any good but I just don't understand here we're trying to save stonewalls.

G. Lake: If the Board wants, we can, I will send him a letter.

W. Capozella: Going back to that easement or what ever for the driveway. I'm sure there was a reason.

J. Nosek: Had a discussion with Mr. Capozella.

W. Capozella: So, right now you're just calling that an easement. I think it would be a right-of way.

J. Nosek: There is the right-of-way. This little triangular piece would be an easement over this land.

T. Hamilton: Nothing.

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

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for 2 LOT SUBDIVISION approval subject to all of Mr. McGoey's comments and this Board's comments and question about the stonewall made by R. Carr and seconded by A. Dulgarian.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

12. **WOLF** - 2 LOT SUBDIVISION - Seaman Road (5-1-16.21) #27-05

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

A. Laput: My name is Mr. Laput from Fellenzer Engineering. The intent of the subdivision is to provide two lot homestead for their caretakers. There's no intent or plans to do any further subdivision. We have received some comments from your Engineer.

G. Lake: Go ahead.

A. Laput: Item #1. A licensed land surveyor must stamp and sign the subdivision plan. We will do that with the final plan. Item #2. The Planning Board should review the overall development plan for acceptability. However, the overall development plan should be on a separate sheet and not made part of the plan set for approval and signature. I'm glad to see that note. There was some reluctance of the owners to provide anything to the Planning Board. I do have to ask if the Planning Board can give some assurance to the owners that they would not be held to this plan if it was presented at some point to subdivide that it wasn't to be brought back. The plan in front of us is the one we're using.

G. Lake: Mr. McGoey, your comment there is that you wish to have an overall plan.

D. McGoey: Yes. We don't want the overall plan approved as part of the plan set. It just goes into the file. It gives the Board an idea that they're not doing something now.

G. Lake: I really don't believe and I live on that road. I don't think they have any intention whatsoever of doing anything beyond that. Can they put a note on that affect or do you want the whole thing laid out.

D. McGoey: No. I just want the plan taken out of the set. I think what they said was sufficient but it shouldn't be made part of the set. It should be just put in the file as a sketch plan.

G. Lake: I don't have any of that.

D. McGoey: They made it sheet #2.

A. Laput: Yes, it's sheet #2.

D. McGoey: Of the subdivision and, we don't want it as part of the subdivision. We don't want to be approving this.

G. Lake: Go ahead.

A. Laput: Item #3. We should discuss whether Station Road is existing and whether same is a Town road. That is on page two development portion. It is not an existing road, it was just a potential road that would be shown. Item #4. The applicant's land surveyor should certify the horizontal and

vertical datum of the Town has been tied into the coordinates provided on the plan. We will do that. Item #5. The contour intervals should be labeled. That's been done. Item #6. The septic system must be reviewed and approved by Eustance Horowitz. That has not been reviewed yet. We did get the percolation tests out there. Item #7. The site distance does not appear to be satisfactory in accordance with AASHTO standards. Sight distance in accordance with AASHTO standards must be certified on the plan by the engineer. We had it from the proposed driveway and what the site distances were going to be and also labeled them. Thirty miles an hour there.

A. Dulgarian: Mr. McGoey wants the prevailing speed and not the posted speed. Is that the problem?

D. McGoey: It's part of the problem. Your table doesn't say these are at AASHTO.

A. Laput: Okay.

D. McGoey: I don't know if they are or they aren't but you have to find out what the prevailing speed is on the road and concur it with the Highway Superintendent.

A. Laput: Prevailing speed, not the posted speed?

A. Dulgarian: Meaning what actually happens.

A. Laput: Okay.

G. Lake: It will have to be provided to us before we sign off on it.

A. Laput: Is that part of the zoning?

D. McGoey: It's policy.

A. Laput: We will do that and contact the Highway Superintendent. Item #8. Driveway details are incomplete. The typical road cross section detail required by the Highway Department should be provided. In addition, the driveway culvert is to have end sections and is to be specified with a smooth insert. Item #9. The soils formula must be prepared showing the total acreage of the property and not just lot #1. That meaning, not the lot we're subdividing?

D. McGoey: That's correct.

A. Laput: Item #10. Details of the retaining wall should be provided.

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

A. Laput: No. I guess I would just ask that the development plan which is filed somewhere, is that potentially something that would get pulled out for a future application for a subdivision?

D. McGoey: If they ever come back to the Board, the Board may pull out the old file and look at it.

A. Laput: So, they wouldn't be held to the plan. Okay.

G. Lake: I will go through the Board.

A. Dulgarian: Other than Mr. McGoey's comments I have no issues.

P. Owen: This potential lot #2 is if it was going to be built out?

A. Laput: Yes. Unfortunately, it's shown on lot #1 as a five acre lot.

D. McGoey: You will have to change that.

A. Laput: Yes, that will be changed.

P. Owen: Was this previously subdivided?

A. Laput: I don't know.

D. McGoey: This lot was previously a two lot subdivision because of lot #16.21 and 16.22.

G. Lake: It may go back to when Mr. Smith had it but that would be about twenty years ago. Anything else, Mr. Dulgarian?

A. Dulgarian: No.

P. Owen: Nothing.

R. Carr: I don't have anything.

W. Capozella: This fifty foot right-of-way, based on what Mr. McGoey is telling us even though I think that's for future use that wouldn't even meet the site distance anyway. That would be a problem.

D. McGoey: That's the problem.

W. Capozella: He put it in there even though we're not supposed to consider it.

D. McGoey: It should come off the subdivision map before it is signed.

W. Capozella: Right off the bat you would have a problem.

A. Laput: You're referring to the right-of-way and it should be taken off?

D. McGoey: Yes.

T. Hamilton: Mr. McGoey wasn't that for the Heritage Crossing as the reason for that?

D. McGoey: I don't think so. I don't think that was ever part of any plan.

T. Hamilton: It's almost lining up with Heritage Crossing.

D. McGoey: I don't think that was a part of our review of Heritage Crossing that I recall.

G. Lake: This would be a pretty tough spot because it dips down. You have no problem with what Mr. McGoey said?

A. Laput: No.

G. Lake: We will sign off on the maps when you get the information in to us.

A. Laput: Understood.

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

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for a TWO LOT SUBDIVISION subject to all Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

13. **TOWER SELF STORAGE** - SITE PLAN/SPECIAL USE PERMIT - Tower Drive (40-1-56.32) #55-04

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

A. Fusco: My name is Al Fusco with Fusco Engineering and I'm representing Tower Self Storage.

G. Lake: Okay.

A. Fusco: If I can, Mr. Chairman, not to submit new mapping but I do have some elevations that I can provide the Board to show them an indication. If we can just to bring everybody up to speed a little bit with this. Originally we had brought this project property before the Board with an original submittal that was for a proposed Tower Motel. We had several work sessions with the Town Engineer for that and he had indicated both from himself and from some discussions, I assume, Board members that it was possibly better suited for some other uses. We looked at the current uses to see what was compatible and for the area and, looking at that we came up with a proposal that we felt was acceptable and compatible. Towards that end, we have had several work sessions with the Planning Board Engineer and with yourself on some occasions and we've come up with a plan that we think is acceptable in relationship to some self storage on this site. Towards that end we've requested that we be able to bring it forth to the Board to hear your opinions in relationship to that so that we can get some sketch plan approval so we can proceed with it. We had strong indications that you were interested in some architectural review and were looking for something that had some different flavor, something that looked a little more pleasing than some of the most standard types.

We did review some of the manufacturers and we came back with different types and we tried to pick the best ones. This one has (not clear) as you can see. In addition to that, we think we have a design with windows and we think that is something that would give you a little bit of an elevation and which we think is attractive. We also had an indication that you felt that landscaping was important. We've been under the impression that you are going to be getting a Landscape Architect on board and we would be happy to work with for any suggestions on landscaping. We had put some landscaping together. We are open to suggestions. There are some existing trees that we had hope to keep. You had suggested to us both on Tower Drive and Route 17. We do understand that stormwater is very important and your engineer has indicated that A lot of the stormwater from previous projects are coming onto this site. So, we have a lot of water from previous projects coming down onto the site that we have to deal with. We are proceeding with that. We are sending a plan to New York State Department of Transportation to receive comments from them as well. In regard to that, we hopefully will receive some of your comments. These are the plans that we want to discuss with you in relationship to the final design and architectural aspects of it. We are open to any suggestions.

G. Lake: You said you were going to try Mr. Thorgensen here on this?

A. Fusco: That's correct.

G. Lake: For?

A. Fusco: The wetland delineation.

G. Lake: And, how much wetland is on that?

A. Fusco: Well, it's really out of the limits of the storm areas but your engineer is indicating that the wetland delineation has not been provided. We want to have that completed so, we're basically just following through with his comments.

G. Lake: I will go through the Board.

A. Dulgarian: Well, I would like to hear what the rest of the Board members have to say about this. I'm kind of on a fence. I don't know if the storage would complement the apartments or if the storage would be taken away from the signal family homes in that area. I also have concerns about the view from Route 17. I know some of the commercial properties we've had major screening done there. The traffic flowing down Route 17 and passing through a community that doesn't necessarily stop we want to leave a good impression. I don't know if storage can do that. I know this isn't the generic storage type thing like we're used to seeing. Again, I don't know if I'm for or against it. I think I can be convinced either way. Like I said, I don't know if it complements the apartments that are going up right across the street.

G. Lake: Just about, right.

A. Dulgarian: And, I remember all the people in the single family homes on Leewood complaining about the type of uses out there also. I don't know. I want to hear what the rest of you think and convince me one way or the other. I'm embarrassed to say, I don't know which way to lean on this.

P. Owen: What's in the storehouse building next door?

A. Fusco: Currently these buildings right now are used for industrial users. The area is what's conducive to this type of a project.

P. Owen: What about on the other side?

A. Fusco: On the other side you have the (not clear). I think that this would actually be probably as well as attractive if it is properly done. If you look at something that we're proposing with landscaping as the Chairman and the Planning Board Engineer has asked us to there would be an oasis to screen these two projects.

T. Hamilton: Where is that, the landscaping that you're talking about?

A. Fusco: We've been directed to do that.

T. Hamilton: It doesn't show on here.

A. Fusco: No, it doesn't but by the time you approve it. One of the things we've done and is unstated is we've haven't gone through with the complete plans yet until we get a positive indication that we're on the right track.

P. Owen: My feeling is that I don't think it's a bad use considering that area. As far as complementing the complex that is going up across the street, I think in a lot of ways it actually does. But, that's my feeling.

R. Carr: Well, when this first came in I wasn't crazy over this use right here especially with the same use on the other side of Route 17. At the same time I guess the only thing, this does buffer from a more industrial use over here. I don't know the alternatives. Having said that, the whole thing comes down to how it looks. I don't know that I particularly think that it's a complement. Maybe I've got to see it more like a photograph. To me, I can't imagine. How tall are these buildings?

A. Fusco: About twenty four feet. They're two-story.

A. Dulgarian: All of these are two-story?

A. Fusco: No, that's the front.

D. McGoey: Is that going to be the front and the back of each of the rows?

A. Fusco: Yes.

D. McGoey: And then, in between them is a single story typical?

A. Fusco: That's right.

R. Carr: My personal opinion, I don't know that is necessarily (not clear). I think it could be a good project if it was done so it did complement the other area across the street, single family homes, multi-family homes as well as commercial. The trick is making the landscape and the architectural standards work there. My personal feeling is it does not fit in.

A. Fusco: That's something we can work with.

R. Carr: I guess what I'm saying is, if it can be done in a way that it can work.

A. Fusco: That's just a suggestion.

G. Lake: At the work session, one of the things that was brought up was and I think he had a whole slew of pictures. I think it was an attempt to show us that things can be done a little different but I'm sure if he gets an okay, he will go out to that neighborhood and come back. I think that's what we're looking for.

R. Carr: Yes. I mean, for instance, there's one up by Route 302 and Route 17M. They had a kind of a nice look the way they designed the front. They had buildings in the front that kind of hid all these.

A. Fusco: In a way, our attempt was to show you the blocking view by having two-story. This is something we felt would work and would fit into any environment.

G. Lake: I think you know the Board wants you to try a little harder.

A. Fusco: I understand.

W. Capozella: The first thing when I looked at this, I said, there's one not far from here. It was one that we looked at within striking distance of this that is the same use. It hasn't been approved yet

but it's further along than this one. It's something that I looked at and it is my concern. There is one of those in front of us already in that area. The one thing I do like about it is the actual usage as far as not affecting traffic. We have so much traffic up and down that road. I'd hate to see anything else go in there but as far as alleviating any traffic uses of that property, that's the one thing I do like about it. There's more work to be done on it but it needs to be better than just a standard type of building to try and blend it in on that area. I guess for the usage, I'm not one hundred percent sure of this site because I haven't really looked at it yet as far as the stormwater. I know you mentioned it and that probably would be an issue with any other type of uses.

A. Fusco: It's a tough site.

T. Hamilton: I think that the impact on the traffic there would be a lot less than if he proposed a manufacturing or warehousing down that slope and that hill on the same side. This use would be less of an impact traffic wise and probably noise wise and everything else to the homes and the apartments across the street. Try and make it look better and make sure that the stormwater is going to work, the screening.

G. Lake: I don't see anything on here, no outside storage.

A. Fusco: We will not be having any outside storage.

G. Lake: Okay. I don't have anything more to add to this. I think this site has had everything from a motel to this and that but I think this will work. I do want to get you hooked up immediately with our Landscape Architect. I think the better we do on that end of it as far as across the street if we can really show something. I think that's the right thing to do. You have the comments from the Board. This is only here for sketch.

A. Dulgarian: So, you're telling if to go ahead?

G. Lake: I guess. I think listening to everybody and think it's a use that's possible unless you didn't get that indication?

A. Dulgarian: No. I can that indication. I just wanted to know what everybody thought.

G. Lake: We have work to do on it yet. We're still looking for imagination.

A. Dulgarian: It would be interesting to see how the architectural comes out on Tower Drive.

G. Lake: Right. Maybe a little homework on that and see whatever else is out there.

T. Hamilton: This maybe coming down that Tower Drive slope . . .

A. Fusco: Right.

T. Hamilton: What's that elevation look like and what we're going to see.

A. Fusco: I understand. Thank you.

G. Lake: Anything else?

R. Carr: Yes. Are there sidewalks along here?

D. McGoey: On the top of the hill they are.

G. Lake: We will have to look. If that's the case then plan on the possibility of that.

A. Fusco: Sure.

MOTION to TABLE for further review made by P. Owen and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Oppose

MOTION CARRIED. 5 AYES, 1 OPPOSE

14. **FRANK** - TWO FAMILY - SITE PLAN/SPECIAL USE PERMIT - 343 Seaman Road (5-1-68) #53-05

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

J. Horton: My name is John Horton for the applicant. They own a home on Seaman Road and they are before you for consideration of making it a two-family dwelling by a proposed addition. At this point and time they have had to make a decision with regards to bringing a family member to this location for some care and so they've actually gone ahead with the addition and pretty much close to a Certificate of Occupancy. Primarily at this point they're desire is to have a second kitchen in the

house which would deem it a two-family which would aid in the care.

G. Lake: This is definitely a family member?

J. Horton: Yes.

G. Lake: At this point. The addition is done, correct.

E. Frank: Correct.

G. Lake: Let me go through the Board.

A. Dulgarian: This is vaguely familiar with other ones we've had out in a rural setting. I would be very leery again of setting any sort of precedence for a multi-family dwelling. If the applicant is willing to do on paper that it's for a family member and once the family member moved away or whatever, again, it's tough to police but it covers ourselves as far as we didn't approve multi-family dwelling in that area and it doesn't set a precedence. That's what I believe. You're shaking your head, Mr. Hamilton but that's what I believe. I think we did that with one other person out there and I think that was the way around it. Again, I know it's almost impossible to do but the minute we approve a multi-family dwelling, what's stopping a guy coming in for a five lot subdivision and doing five multi-family.

T. Hamilton: Us. This Board. We have the right to set how many.

A. Dulgarian: That's what I believe. I believe that we don't set a precedence and if we do no matter whose patrolling or not.

P. Owen: I feel the same way.

R. Carr: I have no problem. It's a social issue. But the thing is, I don't know.

W. Capozella: Okay. I have to agree with Mr. Dulgarian as far as setting a precedence. I think we've said it before in other areas concerning a two-family. It's a shame that we can't say bring a family member in when you're building the extra space and be done with it. It would make all our lives easier. The actual layout of the addition in the back, the acreage I can't say I'm for or against it looking at the layout of it. Again, I'm kind of leaning toward setting a precedent and seeing one right after another.

T. Hamilton: We have the right as a Planning Board according to the regulations set before us that we can set percentages of how many we can do. In the twenty two years that I've been on we have done numerous of these. There has never been a problem and never has a problem come up about setting a precedence. The other item is, you tell the applicant yes, they can build it for a family

member and so forth. Two-family is a two-family. You're going to make them go back in and take the kitchen out and utilities because that's the only

way you're going to get rid of a two-family. If they only put bedrooms on, then it's not a two-family. They can have tenants in there. If they're looking for someone to live in there on their own without interfering with the people in the other half of the building with them, they need a kitchen and utilities, no matter who is in there, family or no family, it's been in our ordinance a long time and there's never a problem since I've been on this Board of someone coming back and telling us we set a precedence. That's all I have to say.

A. Dulgarian: I think times have changed though, Mr. Hamilton. I think it's something that can happen down the road.

T. Hamilton: We have the right to regulate it. It's in our ordinance.

A. Dulgarian: I think we should get something from our Attorney.

G. Lake: I think what we will do between now and the Public Hearing because we have to schedule a Public Hearing.

S. Frank: Right.

G. Lake: We will get out what we did the last time and have the Board look at it and I think that's the way to solve it.

S. Frank: I'm sorry. I'm Stuart Frank.

G. Lake: Excuse me. It's not a Public Hearing.

S. Frank: I just wanted to make this real easy. Elizabeth's mother, this is the third time this year she's been put in the hospital. This week I think she's in Port Jervis. This is really not about renting the house so if it makes the Board feel comfortable where the condition is for a family member, we don't object.

G. Lake: Trust me. The Board is not having this debate because. . .

S. Frank: We understand that because sometimes we come under such heat because people break houses up.

G. Lake: So, between now and the Public Hearing they will ride by the house and take a look and see what can be done. We just have to deal with this.

S. Frank: Sir, let me make one other comment if I can? When we got the original Building Permit

from Mr. Steenrod, in anticipation of not having a problem because we didn't care if it was conditional or not, we took the liberty to do sheetrock, fire walls, etc. Maybe this is my fault. I asked for opinions and everybody told us that we wouldn't have a problem. This house was built as a modular. When I had the house built, I had the cabinets put in. If the Board disapproves it, well we would rip the cabinets out. But everyone I spoke to, said it should be approved without a problem, I'm letting you know that we did, in fact, put the cabinets in. If there is an issue, we will rip them out and that's why we don't care if whether it's conditional or not. It's strictly for Elizabeth's mother.

G. Lake: Okay. Listen, don't do anything yet. A lot of times when we speak we speak on the sixty four square mile Town.

S. Frank: I understand that.

G. Lake: So, when these little debates come up . . .

S. Frank: It's just for her mother.

MOTION to schedule a PUBLIC HEARING for October 5, 2005 made by P. Owen and seconded by A. Dulgarian.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES