

TOWN OF WALLKILL PLANNING BOARD

MEETING

SEPTEMBER 7, 2005

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

MEMBERS ABSENT: None

OTHERS PRESENT: J. Bacon, D. McGoey, S. LaBruna

1. **PHILLIPSBURG** - SITE PLAN/SPECIAL USE PERMIT (Acceptance of Findings Statement) - Cemetery Road (78-1-28, 29, 21, 28.22 & 5-1-4) #35-03

G. Lake: The first item on the agenda tonight is Phillipsburg for the acceptance of the findings statement. We will not be doing that tonight. We will be scheduling a work session for September 19, 2005 at 5:30 P.M. to go over the findings with our new lawyer who has just come on. For that I will look for a motion.

MOTION for a work session to go over the acceptance of the findings statement for September 19, 2005 at 5:30 P.M. made by T. Hamilton and seconded by H. Ross.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

D. McGoey: Mr. Lake, maybe you should advise them in regards to their extension.

G. Lake: Okay.

B. Ostrer: We did receive a message from Rosemary Stack representing the applicant extending the SEQRA and the action on the findings until October 19, 2005.

G. Lake: Wait a minute. Can you come up and use the microphone so we can get it on tape please.

B. Ostrer: We received communication from Rosemary Stack the attorney for the applicant extending any time on SEQRA action in respect to the findings until October 19, 2005. I understand prior to my retention here that there had been some discussion about time constraints into the September meeting so that's been carried forward to October 19, 2005.

MOTION for an extension until October 19, 2005 made by T. Hamilton and seconded by H. Ross.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

2. **A & D MANAGEMENT** - SITE PLAN - East Main Street (50-2-23) #33-05

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

W. Butler: My name is Bill Butler with Leo Carroll Associates.

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

W. Butler: I believe we're looking for Site Plan approval.

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

W. Butler: Yes.

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

W. Butler: Sure.

G. Lake: The twelve (12) foot setback.

W. Butler: We have a letter from the Attorney. I have the original.

G. Lake: Mr. McGoey, on that setback?

D. McGoey: I believe Mr. Bacon has some information about the setback.

J. Bacon: The twelve foot (12) setback on one side. The code says that one side has to be twenty feet, both sides thirty. So, he has twelve on one side and then there's a fifty three foot setback at the hypotenuse line to the building itself, so with those combined they exceed thirty.

G. Lake: Okay.

A. Dulgarian: So, it is one or the other and not both?

J. Bacon: The combined has to be thirty.

A. Dulgarian: On the Zoning Board of Appeals it was always, it had to be both. It had to be the one side and it had to be the total. Now, you're telling us right now . . .

J. Bacon: The problem is that this section of the code doesn't say each. One shall be twenty, both . . .

R. Carr: So, you can have it right on the property line.

J. Bacon: No, I don't think that was the intent.

R. Carr: Exactly. So, if that is under the rule that you're giving us, you could have it right on the property line.

G. Lake: Let's come back to that.

J. Bacon: The Planning Board has the discretion that if they think that there is some kind of a danger or something about the character of the community that requires that the building to be placed differently, they can make that recommendation under that. You're not limited. If it's something about the configuration that needs to be changed you have the discretion. That's something that

maybe the Board can discuss with the Town Board as the joint meeting.

T. Hamilton: In the book it says one side yard twenty and it says both side yards . . .

J. Bacon: Again, that's something you may want to put on the agenda to discuss with the Town Board because I don't think it's really the intent of the Town Board.

A. Dulgarian: The way we've always handled it to my knowledge both here and especially on the Zoning Board of Appeals because that's where we deal with getting a variance.

T. Hamilton: That's for a variance but right now the way we're reading it the book says . .

A. Dulgarian: It says one side twenty that means one has to be.

T. Hamilton: Which they will have.

J. Bacon: Again, if the Board thinks that the configuration of the building in regard to safety of the neighbors or something like that you can request that it be increased. In this case, the Board has to look at the shared driveway right on the other side.

G. Lake: Right. I think that answers it. The second item?

W. Butler: About the shared driveway?

G. Lake: Right. Are you going to do that or not, I take it not because it's not shown. It was what we were looking for.

W. Butler: Our curb cut was approved by the Department of Transportation.

R. Carr: Did you ever consider it, that was what we had requested?

W. Butler: What I understand the owner doesn't want to do that in case he sells one of the buildings. He doesn't want to have a problem with maintenance agreements.

G. Lake: The Orange County curb cut was approved by them?

W. Butler: I'm not sure, but it was approved by the Department of Transportation.

G. Lake: That would be the County.

D. McGoey: With respect to the common entrance, Marylynn just went back into the file, not this file but the adjoining property next to it and there didn't seem to be a discussion about it.

W. Butler: As far as the materials go, the owner's original building which is across the street has vertical cedar siding and the building next door has vertical vinyl siding that looks like cedar. He is undecided which one he will use.

D. McGoey: Does the Board have a problem? Mr. McGoey showed the Board the elevation of the building.

G. Lake: Mr. McGoey, the landscaping, did you have a chance to take a look at that?

D. McGoey: Yes, I looked at it. I don't have too much of a problem with it. He added some landscaping.

W. Butler: The sprinkler system, that's been changed on the plans. The Fire Department wants a lock box for a key. The note is on the new plans.

G. Lake: Is there going to have trusses on this building? If so, the truss plate on the outside needs to be indicated.

W. Butler: That's all indicated on the new plan.

D. McGoey: Is the lock box on here because I didn't see the lock box?

W. Butler: We received the comments after but it will be on the new plans. There will also be a note about the lot line to be eliminated.

G. Lake: I will go through the Board.

A. Dulgarian: I'm not thrilled with this plan although we've seen it before on a smaller parcel. I'm reviewing the minutes now from the adjoining parcel but I thought we discussed a shared driveway. If not, we definitely discussed it with the neighbor next to him when he was looking at his office building. What has happened in that area is it's gone from all residential to a lot of these small stand alone businesses and the curb cuts, the intensity of these curb cuts is going to change dramatically. When this project was before us initially I know that we tried to get him to buy this other property between the two and at that time he was probably held hostage by that property owner and, according to him wasn't able to obtain it. Now obviously, he's obtained it and if we could have tied this entire project in one and had the one curb cut I think it would have benefitted everybody in that area. So, I don't like the idea of two curb cuts for adjoining properties for the same basic use by the same basic owner. Although the curb cut does line up with Bellevernon Avenue, I have a question of five hundred twenty feet of site distance westbound coming out of there and if it was down a little bit further away from the school and the bend in the road, I think it would be better. Mr. Carr and I visited the property today and walked it. The topography on this map is totally off. I just think

this building could be relocated in a better area of this property and use the existing driveway from the project that is now built and maintain the one curb cut which cuts down on the amount of asphalt, improve the landscaping, improve the site distance and really improve the safety situation on East Main Street.

G. Lake: The property you mentioned . . .

A. Dulgarian: Where the orthodontist office is.

G. Lake: Right. The property they bought . . .

A. Dulgarian: The property right there, the forty foot strip. He was approved for the smaller piece and now he's looking to incorporate the other which is good but I just think the layout could be a little bit better. I know Mr. Carr had some points on that.

G. Lake: You also thought the topography is wrong?

A. Dulgarian: Oh, I know the topography is wrong. There's twelve foot drops that aren't on this map. The other issue I have is drainage on this property. If you look at the property next to it there is a small retention pond in the back very similar to the one they're proposing here. This thing has got three feet of water in it and we haven't had rain in two months and it has no place to go. All it is, is a breeding ground for mosquitos and such and if you check the iron rods that are located on the property, half of the drainage isn't even on this property. I know that's the other project but I really want to avoid that on this project also because this retention/detention system is more of a retention I guess, it's going to be the same situation. The topography here is major. It's probably twenty feet from top to bottom. Another thing, if we combine the two projects the topography would be the same. Right now, one property is fifteen feet higher than the other. So, my own opinion is I think this would be a great project but I think it has to be massaged a little bit and laid out a little bit better and I think it would be better for everybody not only the property owner but especially the community and everybody else who travels that road. That's all I have.

P. Owen: I remember the other project and if we could combine in that busy area two different entrances for the same use I think that would be much better. While I understand the applicant's hesitation of doing that in case of a sale, those agreements are drawn up every day. I haven't been out to walk the actual property but Mr. Dulgarian is saying that the topography is off and the water on the property creates concerns. I think it could be better.

R. Carr: I concur with Mr. Dulgarian and he said it all. This project is on a heavily sloped area. You can see the water run from the property next door. The water is just sitting there in the detention pond. This is even worse. You're paving the whole thing. I just think that besides have fewer curb cuts, that road is so well traveled. It is just a very busy road and to have fewer curb cuts and if you could situate the building a little differently and not have all this wasted pavement. You have a ton of pavement. I also question that you can have five hundred twenty feet of site distance

around the bend in the road. I just think it would be so much better of a driveway if a common driveway and situated the building a little bit differently. You could have landscaping in the front and not have to see a lot of asphalt. That's my feeling on it. Either that or scale down the project. The topography is also way off.

W. Capozella: What is the height of the building?

T. Hamilton: Thirty five feet.

W. Capozella: Thirty five feet.

T. Hamilton: The maximum permitted.

W. Capozella: On the drawing here you list the square footage but you have a lower level.

W. Butler: I believe that represents each floor.

W. Capozella: I wasn't clear on that. I made a note originally looking at this about the drainage and pavement. Something definitely has to be done about the drainage.

H. Ross: I would want to see a drainage plan.

T. Hamilton: Definitely if we can get those driveways combined in there. Mr. McGoey, the drainage now . . .

D. McGoey: This is more of an infiltration pond I believe.

A. Dulgarian: There's like a four foot drop beyond that pond where it's always wet back there.

G. Lake: Mr. Dulgarian, are you saying that this little area here is wet?

A. Dulgarian: No, the one next to the finished one but this is going to be a mirror of that because the topography is very similar. Like Mr. Carr said, it's going to be more intense because of the blacktop and some of that water runoff from the existing building does not even go into the retention pond. It's just dumped off the property next to it. So, if it assumed all of it, it would really be a mess. I don't want to deter this applicant from doing it. He's done two very nice buildings in that neighborhood and he's done a very nice job and I'm sure this is going to be nice. I just believe it can be done better than it is right now.

R. Carr: I concur.

G. Lake: You've heard the Board basically. My recommendation at this point especially since there is standing water, I'm going to request that we table this and get you back to a work session. I think

the Board is with you because your client has done a nice job down there but I think I can't ignore the topography issue or the standing water. Do we have any time frames we have to worry about?
D. McGoey: I don't think we held a Public Hearing because this was a permitted use.

G. Lake: Okay. Like I said, I think the Board likes the idea of this building but I think if we called the vote tonight I'm not sure it would go through just on the numerous things we've heard so, I would recommend a motion to table and send him back to a work session so we can incorporate some of things.

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

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

MOTION CARRIED. 7 AYES

3. **HASBROUCK** - 16 LOT SUBDIVISION (Final) - Goshen Turnpike (44-1-105) #90-02

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

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

G. Lake: Okay. Bring us up to date on what you've done.

D. Yanosh: We're still in the Health Department and the Department of Environmental Conservation. Hopefully, within a week or two we will get our approval from the Health Department on the water main extension. The Department of Environmental Conservation still have has the plans up at New Paltz waiting to go down to White Plains. We have no

problem with them approving those plans. It's just a formality. Our hands are tied with all those approvals because of the bureaucracy that goes on.

G. Lake: So, you're still tied up with two agencies?

D. Yanosh: Right.

G. Lake: Mr. McGoey's comments?

D. McGoey: I don't think there's any need to go through all of them. A lot of them, the engineer claims that some of the layers of the computer were turned off. That doesn't help me when I review these plans. I think he should go back to a work session between now and final approval.

G. Lake: We can't do anything anyway because of being tied up in different agencies. Is there anything particular on the comments that you want to ask the Board?

D. Yanosh: No. The Conservation Commission. This is something new. What's the story on those guys? Do I have to wait five or six months for them to review this?

G. Lake: No. I don't think so.

D. Yanosh: Okay.

G. Lake: We had to give a little time to get it up and running. We have time now to make sure that they get their comments to Mr. McGoey as fast as possible. I know at the last meeting Mr. LaBruna wasn't here but his counterparts were and I hope they relaid that to Mr. LaBruna.

D. Yanosh: We been two years of going through and with someone else to look at the plans we just don't want to be held up anymore.

G. Lake: I don't know if they have anything particular on this. This might be their first time looking at it.

S. LaBruna: Yes. We will be submitting comments and make sure you get copies.

G. Lake: Make sure that they get submissions to us as soon as possible so we can work it into Mr. McGoey's comments and try to follow everything in one direction back into Mr. McGoey's comments.

D. Yanosh: I did talk to Mr. Lippert today. He had some comments from before but he had no problem with the layout and stuff. He hoped that the road would be a lesser grade but we meet the code with no problem at all. He had no problems with any of those things. A lot of these are small little Department of Environmental Conservation and really, there isn't any big major things that we have to do.

G. Lake: I just want to make sure now so you have a chance to ask the Board.

D. Yanosh: Is there anything that the Board . . .

G. Lake: I will go through the Board in a minute.

A. Dulgarian: No. It's a shame it's still tied up in other agencies. I would have no problem giving him an extension. Just for Mr. Yanosh's information, when this came before us we had no such thing as the Conservation Commission.

D. Yanosh: I know, that's true.

A. Dulgarian: Now that we do, we like to include them.

D. Yanosh: I don't mind their input but I'm just waiting.

A. Dulgarian: It's been pretty quick, also.

G. Lake: In all fairness, it's been both and I think we're well on the way of trying to get it funneled back into one direction.

A. Dulgarian: I don't have a problem.

P. Owen: I think probably what Mr. Yanosh is concerned about is having to rework the entire plans over again.

G. Lake: Even the stormwater management laws have changed since.

D. Yanosh: Well, we have. Mr. McGoey's office has reviewed everything.

G. Lake: I think we understand and we can work that out. I wouldn't expect him to redesign the whole project.

R. Carr: I have no problem with the project. It has been before us for a long time.

G. Lake: I think everybody agrees with that.

W. Capozella: I have a couple questions. Tonight we're going to approve the extension and there's no time frame on that? It's been around for a couple of years.

G. Lake: Unfortunately, this is no his fault.

W. Capozella: Right.

G. Lake: He can't do anything and we can't do anything until he gets out of the Health Department and the Department of Environmental Conservation. They're outside agencies that he has to satisfy and receive his permits.

W. Capozella: So, basically we're not restricted?

G. Lake: No. There's nothing we can do and he can do at this time.

W. Capozella: The other question I had which I didn't notice in Mr. McGoey's comments was about the proposed Town road. It just says proposed. Is it something we're just going to go through with? Is that normal that the Town will be taking over that road?

D. McGoey: Yes. We review it and the Highway Superintendent reviews it to make sure it meets the Town specifications.

W. Capozella: But, they still have to approve that, right?

D. McGoey: Well, we will approve it. The Highway Superintendent will approve it and then when they construct it he has to accept it.

W. Capozella: Just one other comment. I know this was before my time. This is in an R-1 zone?

D. Yanosh: No. R-2 zone.

W. Capozella: I ask the same question all the time. When did the project start? Some of these I don't know.

D. McGoey: Yes.

W. Capozella: So, that I have to ask if it meets the requirements but it was met previous to the law being changed. Sometimes I get caught in that time warp and I always have to refer back to it.

W. Capozella: That's all I have.

T. Hamilton: No concerns.

MOTION for a ONE YEAR EXTENSION to PRELIMINARY APPROVAL made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

4. **FOGARTY** - 3 LOT SUBDIVISION - Lybolt Road (12-1-49) #109-02

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

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

G. Lake: Go ahead.

D. Yanosh: This project, again, was started many years ago prior to the changes in zoning. That's where we are at right now. We're finally back in. We were here a while ago with a plan at a work session. We have an existing house that sits on the corner. If you've been out you see where the house was. We had a house fire many years ago. The plan is to take that house down real soon and put another house behind it and put it on lot #2 which is 1.4 acres. Add another lot in between that house and the Morris lot of 1.41 acres and then Mrs. Fogarty is going to build a house on lot #3, the remaining parcel. You've seen this before in different stages. We have a note on the plan that the house on lot #2 is going to come down before they finish the house on lot #3 to approve the site distance for that driveway.

T. Hamilton: Mr. McGoey, one quick question? They have Preliminary, that's what your note says?

D. McGoey: There is no Preliminary.

T. Hamilton: Then how can he get three lots?

J. Bacon: I spoke to Mr. Yanosh today and there are the moratorium law in two places. Whether or not the Town Board wants to amend it, they're free to amend it but the fact that the purpose and intent it says it applies to approvals relating to the construction of all subdivisions of three or more

dwelling units in the Town of Wallkill including the moratorium on the acceptance of any new applications by the Town of Wallkill Planning Board for the construction of subdivisions of three or more dwelling units. Then it says it again in Section 3A., the Town of Wallkill Planning Board shall not grant any Preliminary Approvals to a subdivision plot, Site Plan/Special Use Permit or other permits that would have as a result the construction of the subdivision of three or more new dwelling units within the Town and the moratorium is placed for any applications. I talked to Mr. Ward about this and this is the way the law reads. I spoke to Mr. Brodsky about this and it was his interpretation as well. Again, if it's something that the Town Board wants to amend to allow more units to be built than covered by the moratorium they can do it if they advertise.

R. Carr: Again, we talked about this before. I believe, at the last meeting that we were told that the Town Board interpreted the moratorium and the lot that exists can have a house on it so that the subdivision only creates two new units. Now, we had never applied that like that until we were told by the Town Board and I believe it was at the last meeting.

J. Bacon: I think you're right. If you have an existing use . . .

A. Dulgarian: It does have an existing use.

R. Carr: Yes, but that's being taking down.

D. Yanosh: No, it's there. It's an existing house.

R. Carr: If she put a house there right now she could do that. I'm just telling you this came from the Town Board and we acted on a subdivision according to that. It came from an attorney.

D. McGoey: It came about at the last meeting.

D. Yanosh: I believe it was the Miller property. I went and talked to the Town Board myself. I talked to Mr. Ward and they told me that if you had a six acre piece of property with no house on it at all you can put three new houses on two acre lots with no problem at all with the zoning.

A. Dulgarian: I didn't believe that.

D. Yanosh: That's what he told me. That was the intent of the law. And he said, if you have an existing house it, which this one does, this one has an existing house on it. Again, we have to remove it because of the age and the site distance. We're moving it back and we are creating two more. That's all we're doing. That's all we're doing, two units.

R. Carr: Actually that's the intent of the law. Apartments would be units.

P. Owen: Well, that makes sense.

R. Carr: If we're going to take down this house, we agreed to this even before we got the ruling from across the hall.

T. Hamilton: What ruling? We haven't seen anything on paper from an attorney yet.

G. Lake: Is this a three lot or a two lot?

D. Yanosh: Three lot.

T. Hamilton: There's an existing house that's going to be demolished and a new one put in place. That's different. They will end up with two new homes because they're replacing the older one. That's the difference.

J. Bacon: I was looking at the existing one story dwelling as part of the subdivision. Mr. McGoey pointed out to me that the existing house is the middle lot.

T. Hamilton: Correct.

J. Bacon: That's going to be demolished and replaced by a second home so that the sum total of new dwelling units would be two. You're okay.

A. Dulgarian: Now it needs a Public Hearing.

T. Hamilton: Since the moratorium had started we had gotten a letter from Mr. Brodsky who was the Planning Board Attorney and his reasoning was three or more and if you had one existing one the subdivision you could add two more as long as there was an existing one. Since that we've been hearing input from the Town Board saying different but we have not seen any legal documents from any attorney's coming to us overruling Mr. Brodsky.

J. Bacon: I haven't either but it doesn't apply here.

G. Lake: Okay, so you're saying we can move forward on this?

J. Bacon: Yes, because I thought the existing house was on lands now formally of Morris. It was hard to determine.

G. Lake: But, it's a three lot subdivision.

J. Bacon: Yes but it results in two new homes.

A. Dulgarian: All we really need to do is set a Public Hearing date.

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

D. Yanosh: Again, I talked to Mr. Lippert today and have to put a note on the plan about the easement about the site grading. We have no problem with that. Coming around the corner by the house you can only do not even thirty five miles an hour. That's why I put the prevailing speed at thirty five.

D. McGoey: If he's happy with that . . .

D. Yanosh: He had no problem.

D. McGoey: How about the location of the driveways?

D. Yanosh: That will be added to the new plans.

D. McGoey: Is there a note on the house?

D. Yanosh: That's there.

D. McGoey: The comment I made says that the existing house would be removed prior to the issuance of a Certificate of Occupancy on lot #3. I thought the house should go down before we have a Building Permit because to try and construct a house behind a house . . .

G. Lake: And, I believe she was at the Town Board the last meeting making a request for that to be done and I don't remember if they okayed it or not.

D. Yanosh: Yes. We have that permission from the Town Board that we can leave that house up on lot #2 until the Certificate of Occupancy is issued for lot #3.

G. Lake: We will need a copy of that for our records. I will go through the Board.

D. Yanosh: I can do that.

A. Dulgarian: I have no issues with this.

P. Owen: It's good to move forward.

R. Carr: No problem.

W. Capozella: Nothing.

H. Ross: It looks fine.

T. Hamilton: Nothing.

MOTION to schedule a PUBLIC HEARING for November 2, 2005 made by W. Capozella and seconded by T. Hamilton.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

5. **BERLIN** - LOT LINE CHANGE - Red Maple Lane (52-6-2 & 3) #78-04

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

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

G. Lake: Go ahead.

D. Yanosh: This one here for all intent and purposes, I don't understand why I'm here. The Building Department sent us this way. There is two existing tax map parcels out there. They're both owned by Mr. Berlin. They went to the Zoning Board of Appeals to get variances to be put two-family homes on them and got denied. In the long run I told them, let's just combine the lots into one tax map parcel, put a house on it with and be done with it. He went to the Tax Map Department in Goshen and combined the two lots together. I don't have the exact number of it now but it is one tax map parcel. Anybody can do that. You can take your two pieces or property together and join it together by deed and file the deed in Goshen, you can do that. It's legal.

G. Lake: So, the Building Department sent you here to move that lot line?

D. Yanosh: Yes. I don't know why. Mr. Steenrod said I had to come here for a Site Plan for a house. You can go to Goshen and combine lots provided you own them.

D. McGoey: But, it's only for tax purposes.

D. Yanosh: So, we're going to do a single family. All of Mr. McGoey's comments, I have no problem.

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

D. Yanosh: Not really, no. Just the fact that I have to do these things for a Building Permit but that's okay.

G. Lake: You're here so let's do it.

D. Yanosh: Okay.

A. Dulgarian: What about item #10?

D. Yanosh: It's an asphalt drive, just the way it is, in the back corner.

D. McGoey: Will you be offering an easement for that?

D. Yanosh: I can check with them and see what they can do for that.

G. Lake: I will go through the Board.

A. Dulgarian: I have no problems with this. Very little impact. Other than having to do something with the encroachment.

G. Lake: We probably should.

D. Yanosh: Get a letter from the owner saying it's okay or something like that?

G. Lake: Yes, something and get it to our Attorney. That way everybody is safe.

P. Owen: Mr. Yanosh, what is he putting up?

D. Yanosh: A single family house.

P. Owen: Okay.

R. Carr: I have no problem.

W. Capozella: No problem.

H. Ross: I agree.

T. Hamilton: Nothing.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and getting an agreement on the encroachment made by R. Carr and seconded by H. Ross.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for LOT LINE CONSOLIDATION and SITE PLAN approval subject to all comments made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

6. **ELGREEN ORCHID FARM** - SITE PLAN - 511 Prosperous Valley Road (6-1-72) #54-05

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

R. Smith: My name is R. J. Smith. I'm here representing the principals of Elgreen Orchid's. I actually didn't think I was going to be asking for any approvals this evening but now, I just witnessed the elimination of a lot line needing approval which is again, new to me because we do it very often through the tax map department. What I'm here to do this evening is to close a loop and review with the Board in regard to an agricultural use in a rural agricultural zone within the Town. It stems from the issue wherein the Town Zoning Ordinance and the rural RA-district provides as a permitted use the growing of crops, orchids, orchards, and grazing livestock. What's not said there although it can be applied is you can also have buildings to have livestock for horses, for cows or buildings for orchards or buildings to grow and equipment to grow crops. The question came up was does that mean you can only do this stuff outside and you can't have any buildings associated with those agricultural uses. As we look around Town it obviously that it isn't the case nor, the intent of the permitted use. In our case, it's a question of an existing greenhouse growing operation on Prosperous Valley Road in the RA zone where they have built and re-built greenhouses and they were taking some greenhouses down and putting new ones up. I say we've been on a journey. We started with a work session with Mr. McGoey, went to the Planning Board Attorney for some interpretation, ended up going to the Zoning Board of Appeals and then to the Town Board addressing this issue and the vagueness of this issue within the wording of the Town Zoning Ordinance. Along the way, we also had discussions and meetings with New York State Agriculture & Markets and the Orange County Planning Department. So, we've been covering all basis because that's the way we kind of went around. The long and short of it, the Planning Board Attorney had issued an opinion which I believe was forwarded to this Board and the Town Board.

G. Lake: I will have him explain that in a minute.

R. Smith: Okay. We had made an application because we thought it was possible for us to get action with the Zoning Board of Appeals for an interpretation and we're on the agenda Monday night and, in the meantime the Town Board acknowledged this that clearly it's not the intent to prohibit agricultural uses from having buildings within the rural agricultural zone. In fact, that is the intent and not the purpose of that zone. So, they've drafted language or in the process of amending the zoning ordinance to clarify that. It's our intention that those uses are permitted uses and therefore don't require Site Plan approval and greenhouses are actually in the New York State Agricultural & Market Law. They're not even buildings or equipment so, it doesn't require a building permit. In fact, this property happens to be in an Agricultural District, not to be confused

with the zoning district and agricultural district which affords the State additional protection under the right to farm laws and the New York State Agricultural & Market Law.

G. Lake: You said you had been to the Zoning Board of Appeals or you have not been?

R. Smith: No. We filed an application three months ago and we're finally three months getting on the agenda.

G. Lake: And, basically you're just going for an interpretation?

R. Smith: For interpretation.

G. Lake: For this coming meeting?

R. Smith: Right. We're on the agenda Monday night for an interpretation.

G. Lake: Let me ask because we did discuss this over the telephone. Maybe you would like to bring the Board and kind of give us a quick understanding on how to review this.

J. Bacon: Sure will. The question was whether or not indoor use was permitted as well as an outdoor use was. The code does not specifically say one way or another. It basically says permitted uses, the growing of crops, orchards, and the grazing of livestock. When we deal with that issue, sometimes you might assume the growing of crops may not necessitate a greenhouse or other building. The same with orchards. In looking at that and in looking at the copy of the plan, it would seem to me that indoor as well as outdoor should be allowed. That would be the intent. That doesn't mean that there is no review by the Planning Board because of an elimination of a lot line. There is a review there and I think Mr. McGoey's comments should be thoroughly dealt with by the Board.

T. Hamilton: But they would still have to meet setbacks and so forth for the building itself. That would still have to be met.

J. Bacon: I don't think that, we're talking just about the use.

G. Lake: Mr. Hamilton did just bring up a valid point.

A. Dulgarian: My question is does the agricultural designation give him, does he even need to be here for buildings when it falls under the agricultural designation? Is that part of the question here? I agree with what the interpretation here is for indoor and outdoor. I have no problem with that but I thought they or he said there were a lot of leeway given to agriculture and maybe he didn't even need to be here.

G. Lake: I can tell you . . .

J. Bacon: For a lot line change.

G. Lake: I think that's the only thing he needs.

J. Bacon: In looking at that, does the Board have to take an action, then it is subject, you have to do something under SEQRA. If there are environment impacts that are associated with this and if the Board feels needs mitigation, then this is the time to look at that.

R. Carr: He could really do this without the lot line change. Isn't it under the agricultural? Are they still subject?

G. Lake: There's a lot of leeway. I can tell you from the County level because I'm also a member, I agree these are what we're going to see a lot of in the future are these type of operations.

A. Dulgarian: It's kind of a downsize to actual farming.

G. Lake: I do agree with straightening out the lines.

T. Hamilton: What about my question about the setbacks?

R. Smith: You still have to comply with all the setbacks.

T. Hamilton: That's what I wanted to know.

R. Smith: In fact, there's a special law if you're building a building that is going to house animals you have a greater probably like one hundred feet.

T. Hamilton: Okay, they still have to meet the setbacks.

G. Lake: I will go through the Board.

A. Dulgarian: I have no problem with this project. I just look to the expert table for a little guidance. I don't even know exactly what the applicant is trying to do, other than the lot line and it's obviously I don't even know if he needs that. I'm not sure why he's here. This type of project in the Town, to me, is very welcome. It's the new wave of our agricultural, what they can hang on to and what they can some money at. It would also help give us some character in the Town. I like it. I just want to make sure that they're happy with it.

P. Owen: I like the project also.

R. Carr: I like the project. I have no problem with the lot line change. I would say that if this is the future of agriculture. I think I guess what we really should look at or a project of this size is just the kind of water usage. You can do a ton of things. This is fine. I don't think there will be any negative impacts. I also think that's where the future of agriculture will come to.

W. Capozella: I agree mostly about what Mr. Smith had to say about the usage of the property and what the laws are and so forth as far as that goes. The one thing that's still not clear is that little proposed shipping building or whatever. That's not necessarily a greenhouse. That's not necessarily a barn for horses or animals. That's my only question. Again, I'm just raising it just to make sure that we cover all our basics. That doesn't seem to fall into that type of category.

R. Smith: It would be equivalent to an orchard. An orchard has to have a packing house. All they're doing there is packing the flowers and shipping them. The flowers come out of the greenhouse and they put the wraps around it and have it ready for shipment to the retail operations.

W. Capozella: Is that what you were referring to is like a box?

R. Smith: Yes. It's packaging flowers for shipment to the retailers.

W. Capozella: I like the word packaging better than boxes.

G. Lake: I think any agricultural operation has some kind of building whether it's a milking house, a packing house. You go down to the onion farms down in Pine Island, they have buildings. I just think it is part of the agricultural operation and that is what this is meant to be for, right?

R. Smith: Yes.

H. Ross: Are there refrigeration requirements being proposed?

R. Smith: With orchids there are no refrigeration. Tulips, there are.

T. Hamilton: Nothing further.

G. Lake: Will it be a year round operation?

R. Smith: Not on tape.

G. Lake: Any retail on the site?

R. Smith: No.

H. Ross: How many truck trips?

W. Smith: I believe it's only two a day. Orchids are very high in product and they fill a couple of trucks and they're boxed trucks. At the most it's two a day.

D. McGoey: Mr. Lake, we need the stormwater management.

R. Smith: Any farming operation would have to comply.

D. McGoey: You would have to get your SPEDES Permit for the stormwater management.

D. Yanosh: I was discussing that to.

R. Smith: The roofs have valleys in them to collect the runoff.

D. McGoey: You have major drainage concerns on the site.

D. Yanosh: The construction is a tubular design with plastic over the top of it. It will be channeled in the middle..

J. Bacon: You will have grading to do on the site, don't you?

D. Yanosh: Yes. With the agricultural uses he can re-pave his property. We can check it out with the Department of Environmental Conservation.

D. McGoey: Yes. You're doing improvements. I don't know the answer.

G. Lake: Mr. McGoey, even on a farm?

D. McGoey: Maybe not.

J. Bacon: My concern is looking to see whether or not that is exempt. If this Board has to take an action to remove that lot line, so something will have to be done to apply under SEQRA. And then under SEQRA you want to make sure that whatever impacts are going to be minimized whether it's soil erosion or whatever it's going to be.

G. Lake: Why don't we do this, then? Obviously you two guys need to do a little research on a couple of things. Have you filled out the proper application as far as removing the lot line?

R. Smith: I don't know if we did but we weren't aware we had to do that.

G. Lake: You know what. I think you have the Board's feeling that the Board is on this one hundred

percent. We think, and correct me if I'm wrong, but I think the issue we have really is you want to move your lot line so you have to do the paperwork for that. And, obviously your setbacks looks like it complies.

A. Dulgarian: Also our Attorney and our Engineer are telling us there's some doubts for the Negative Declaration.

G. Lake: Let's give our Attorney and our Engineer until the next meeting which will be October 5, 2005. Let's table it.

R. Smith: There was an application for Site Plan and then it was determined we didn't need a Site Plan because it was a permitted use. We've been four months between all the Boards.

T. Hamilton: A permitted use still needs Site Plan.

G. Lake: I think you know the Board is behind it.

MOTION to TABLE for further review until October 5, 2005 made by A. Dulgarian and seconded by P. Owen.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

7. **DRAKE ROAD RESIDENCES** - 2 LOT SUBDIVISION - Drake Road (22-2-56.2) #59-05

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

M. Miele: My name is Michael Miele with Hudson Valley Engineering.

G. Lake: Go ahead.

M. Miele: The applicant is proposing a two lot residential subdivision off Drake Road. It's in an R-A district. One of the lots, lot #2 would be a flag lot. All individual wells and septic systems will be on the sites. We have all the proper separations. We need to get all the septic systems approved through Eustance & Horowitz. I have Mr. McGoey's comments. I don't know if you want to go through them.

G. Lake: Has this been subdivided within the last ten years?

M. Miele: I have to get proof of that but I don't believe so. It's not part of a filed map. We're researching through the deeds but I don't believe so.

D. McGoey: Tax parcel 56.2, so it is part of a subdivision. The question is when was it subdivided out.

M. Miele: That's what we're trying to identify.

D. McGoey: And, if you look up the filed map, it is.

M. Miele: I don't believe it references the filed map.

D. McGoey: Like I said, it's 56.2 so there must have been a subdivision and it must be filed.

M. Miele: I will get a copy of the deed and go back through the references.

D. McGoey: And, we need to see the maps to determine whether the Planning Board put in a restriction about further subdivisions.

J. Bacon: You will have to go to the County Tax Map.

D. McGoey: Right. We asked this same question back in June. I don't know why we don't have it. The plan should have a note that each of the two dwelling units are proposed as single family. The Town's horizontal and vertical datum, do you have a problem with that?

M. Miele: No.

D. McGoey: Soil types have to be shown. The bulk table.

M. Miele: We have enough but I will make it clear.

D. McGoey: Mr. Lake, what I'm suggesting maybe we can send him to Eustance & Horowitz. I wouldn't recommend action until we figure out where we stand on the previous subdivision.

G. Lake: How about the Agricultural District, are you within five hundred feet?

M. Miele: No.

G. Lake: Do you have that?

M. Miele: We're not within the Agricultural District. Mr. McGoey said if we can get all that other information we can at least apply to Eustance & Horowitz and get the joint site inspections and the septic.

G. Lake: How about the tree line in the back, are you going to save of them?

M. Miele: Yes. And, we will note on it no certain limits of tree disturbance.

G. Lake: Mr. McGoey, we have to verify that this has not been subdivided within ten years?

D. McGoey: Correct. And, that there were no restrictions placed on it by the Planning Board. It's a very long and narrow lot.

G. Lake: Let me go through the Board.

A. Dulgarian: I hate it, but it meets the code. You know again, flag lots, you're taking a lot that has certain restrictions based on the size and width and you're hacking in into two but according to our code right now it's still legal but I hate it.

T. Hamilton: But the new code when they pass it, the building lines will have to be at the road.

A. Dulgarian: So, that will take away from the lot.

R. Carr: Under the new revised plans, they're eliminating that and saying it should go back to the building line.

P. Owen: I don't mind flag lots. Other than figuring out whether this was subdivided within the last ten years, I don't have a problem.

R. Carr: I generally do like flag lots. I know a lot of people who like their houses stuffed in the back. This one happens to not. I don't know exactly the site.

W. Capozella: I guess I'm just going to reserve on the subdivision until we check the further subdivision.

D. McGoey: I was suggesting that you let him go to Eustance & Horowitz and not make it a subject to.

W. Capozella: If that's the case then I don't have a problem.

H. Ross: Other than saying what Mr. Dulgarian said about with flag lots. Not because I don't like them and they can't be done in a nice way. If the new code can fix it, then we should try and see.

T. Hamilton: They did add a change of fifty feet wide at the road frontage, only in R-A.

G. Lake: Mr. McGoey, how are we going to send him to Eustance & Horowitz without any motion?

D. McGoey: We will mail them a letter.

MOTION to TABLE for further review on a previous subdivision and any notes showing restrictions made by P. Owen and seconded by A. Dulgarian.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

8. **FAIRGROUND'S PLAZA** - PHASE 1B - SITE PLAN MODIFICATION - Route 211 East (50-1-35) #40-04

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

M. Archangel: My name is Michael Archangel.

G. Lake: Go ahead.

M. Archangel: I'm here tonight to ask for a Site Plan Modification on the building use see in orange is the building I'm talking about. It is labeled as "F" and "G". It's around sixty eight hundred square feet. The site plan, number of parking spaces, the position of the parking, the size of the building, etc. all stay the same from the original approval. The difference is and the request is that we want to construct a Hudson Valley Federal Credit Union in this particular building so instead of being two tenants, it will be one tenant. The original site plan called for two drive up locations. This calls for three. The other difference that I can site is that we've added an escape lane in the rear with a right turn only for the simple reason that if somebody gets in line and forgets something or decide there's too many cars ahead or whatever the case may be, that they could have an escape lane and force them to the right and go back around. This is a blow up of that building just to give you a little better prospective of what the building looks like and how the relationship to the cars and so forth. Again, the escape lane. The first lane would be an ATM lane, the second and third would be teller service lanes. We've also added in the rear of this building which wasn't the case before curbs islands just to guide the cars around and added a little bit of additional landscaping in the back of the building. The building itself is pretty much the same as originally proposed. I can show you the original renderings I brought you about a year ago to show with the exception that we've added some more windows, obviously, for offices, drive up windows and we've added a canopy for the drive through. The original plan indicated a canopy but it was never on the rendering. This is originally what I brought you about a year ago. Everything remains the same with the exception.

G. Lake: Even the store front?

M. Miele: The store front basically, if you look at this, we had all glass across the front originally. As is being proposed basically the same, just one door location instead rather than two and the reason for that is I pretty much gave the bank the criteria that I came before this Board and said this is what's approved and this is what you have to live with. We worked it out.

G. Lake: So, it's going to work in with everything.

M. Miele: Pretty much, the materials and the coloring and so forth are pretty much going to be harmonious with the other buildings that are going up. The Auto Zone, Hollywood Video, Cheeseburger Paradise. We are going to add some more landscaping in this island and obviously in the back of the building. We worked it out with Mr. Esposito I believe. We are definitely going to be adding additional landscaping.

G. Lake: I will go through the Board.

A. Dulgarian: I have a lot of questions on this unfortunately. The total on this piece. First off, I have no problem with the bank and I think it's going to be nice. There are roughly seven ingress and egress through this property on this site. I have a problem with that. I have a problem with the right out only. It doesn't work. Even the one we did at Chili's, people are still banging a left over the curb. I understand that is probably the way out if you get stuck in the drive through so I don't know what the answer is. I question the need for seven ingress and egress flowing in with the gas traffic. This project that came before us initially looked really good and had a lot of potential. It still does have a lot of potential. The site is terrible. There's no erosion control at any of these banks. The silt fences have failed. It's terrible. The landscaping out front by Route 211 sucks. When they come back to us for something major other than a little modification there's going to be some serious stuff. I'm also wondering when Phase 11 comes in, I don't know what's going to go on in the back. Was the other property sold?

M. Archangel: It was sold about two months ago.

A. Dulgarian: Now, there's a potential for this road. Here's what I'm thinking and some of it was Mr. Carr's idea and we talked about sidewalks perhaps. What happens a lot of school kids are walking down this road. What I'm thinking too, when the fairgrounds ceases being the fairgrounds which is going to happen some time down the road and that becomes residential or whatever, this road should continue straight down to the senior center or go down past towards Price Chopper and alleviate some of East Main Street. This is down the road future planning. My point is if they develop the back of this property sidewalks would be feasible on this road. You can't do it right now because we have no way to justify it. The site started out to be really good and a couple buildings came out really nice but it's very poorly maintained for what it is and for the amount of visibility. I'm a little disappointed and dealing with this particular thing that we're looking at tonight I think that flow is a little dangerous and I would like to have more input.

P. Owen: I agree with everything that Mr. Dulgarian said especially with the seven different ingress and egress. It just seems to be a mess.

G. Lake: I'm just curious. Have there been any problems there?

A. Dulgarian: There's no bank there right now.

G. Lake: No, but with anything else up there?

A. Dulgarian: The traffic flow.

G. Lake: Have there been accidents?

P. Owen: Not that I'm aware of. I think he's talking about actually inside.

A. Dulgarian: There are two buildings being built.

R. Carr: You have this building being built.

M. Archangel: Auto Zone is being built now.

G. Lake: No. I'm just surprised, that's all. I didn't think there was a problem when I was there.

P. Owen: It just looks like an awful lot going on there with all those. I'm just saying that in that area there, there could be a convergence of cars from all different directions and it looks very busy. Where the gas station is now, what do you have? Between the two of them, there's seven.

M. Archangel: This is no different than the approved plan with the exception of the escape lane. Everything else is the same.

R. Carr: I also think when we do some of these parking lots, I don't know but I do use them. This is a bad parking lot and I escape without accidents. I'm not crazy about that. I would also and I know you're going to add landscaping, I go by here everyday and you know I always think this was an opportunity for us. Landscaping, this is the biggest project going on in the Town. There's no bigger project going on right now than this. It takes up all of Route 211 and it looks lousy. And, what they're putting in now, some kind of ditch.

M. Archangel: It's a retaining wall.

R. Carr: I don't know. It represents the Town poorly in a place that we were really going to really try.

M. Archangel: You're not wrong at all.

R. Carr: I'm just preparing that whoever comes in for this parcel that this has got to be re-addressed. This should be addressed up here. If you see the silt that's running down. There's no grass. They're steep slopes, and dirt. I say we missed the boat on this.

D. McGoey: What we did was we had a Landscape Architect look at the interior of the site.

M. Archangel: What we did we worked with Mr. Esposito. There's a lot of dead plants, trees left over from Stop & Shop. What we did we went and replaced all those. We actually went and colored them. We actually added more along Route 211. Unfortunately, what happened is we planted everything in the end of May and we had a drought. I lot of those which I witnessed today like the oaks are gone. Come next week and the week after when we get a little rainfall they will all have to be replaced.

A. Dulgarian: There were trees damaged during construction.

M. Archangel: We replaced all those in May. Everything was fine and between May and now with the little amount of rainfall we've had and nobody went out, there's a lot of replacement to be done.

G. Lake: Let me get through the rest of the Board.

R. Carr: Is there something more to consider, if we're doing landscaping in a parking lot like this, the Pizzeria Uno is the only project that I've ever seen that is having irrigation to have those plants watered. Nobody takes care of them.

W. Capozella: You know when I first took a look at this, Mr. Dulgarian's right in saying the whole area is a busy area but you want to have some inlets and outlets because what's the first thing that everybody does when they start going through a little place like this. They can't find their way out and start speeding. The thing that I would like to see and I know that everybody hit on the landscaping and so forth is some of these islands here. If you don't maintain them what's the sense even bothering with landscaping there. You're talking about a bank area and this should be a little bit nicer. Those islands, if you make them a little bigger. I will say it again, if they're not maintained I would rather look at curbs and not look at landscaping that's not maintained.

H. Ross: Landscaping is a concern. The biggest concern is the curb cuts. My primary concern is that we should be looking at sidewalks.

T. Hamilton: Yes. I think Mr. Carr is right. I think we missed the boat. Landscaping we left it to Mr. Esposito and I know we didn't take a quick look at what his recommendations were when he came back to us. And, if you look down at the Wal Mart down in Harriman on what they did with their parking lot they have aisles that have hedge rows right down the middle of each one and look how much landscaping is in that. If you look at that site and it's only maybe two years old and the amount of shrubbery stuff that's in there that it does not look like a big mass. Take a look when you go down and see what they've done down there with these aisles.

A. Dulgarian: Like this gentleman said, I believe a lot of it is maintenance.

T. Hamilton: But still, as part of Site Plan they have to keep it up. That's what we have Code Enforcers for.

G. Lake: That's probably something that maybe we should look at.

T. Hamilton: What about our Landscape Architect?

G. Lake: It's here for a modification. Unfortunately the soil erosion on the project should be looked at.

M. Archangel: We've been aware of the erosion for about a week and the landscaping I had a look

for myself today.

G. Lake: I'm hoping between now and the time build out comes on this phase of it that you're able to come back some day and show us that you're correcting some of these issues.

A. Dulgarian: Can I ask you now that the project has changed and Caldor is no longer part of it, what can we expect, if anything, at build out or are we looking at a complete project.

M. Archangel: I can speak for this property. What you can respect is pretty much everything you see, all the approved buildings. The only thing that this ten thousand square foot building will probably become smaller.

A. Dulgarian: That's building?

M. Archangel: Building "B".

A. Dulgarian: And, that has nothing to do with the carpet store?

M. Archangel: No.

A. Dulgarian: In Phase 11, you showed something up here, actually right here. Is that going to happen?

M. Archangel: A possibility.

A. Dulgarian: This other one is approved so you're just going to downsize it?

M. Archangel: Probably.

A. Dulgarian: So the answer to my own question is you're probably not going to be back for anything else additional on this site?

M. Archangel: I would like to tell you I would be but what we did.

A. Dulgarian: I would want you to come back because I want to get some mitigation on this property.

M. Archangel: This area here, we did set up for grading for a building but there's no interest so far. The problem here is we have a lot of smaller tenants.

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

D. McGoey: No.

MOTION for a SITE PLAN MODIFICATION subject to the Board's comments made by P. Owen and seconded by A. Dulgarian.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

9. **DUSO PROPERTIES** - 3 LOT SUBDIVISION (Final) - M & M Road (13-1-103.2) #73-03

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

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

G. Lake: Go ahead.

J. Nosek: We had received Preliminary Approval for this project. It's a three lot subdivision. Since then we've submitted to Eustance & Horowitz for approval of the septic systems and we expect probably to have that within probably a two to three week period. We do have tests to be witnessed but I think pretty much everything else is in order. I do have Mr. McGoey's comments.

G. Lake: Okay, go through them.

J. Nosek: The first comment, just to give you some background on the project. The latter part of the comment is indicated that the dwelling on lot #1 was to be located in the northerly direction to provide better separation distance. As I indicated the night of Preliminary Approval the attention will be down the road rather than try to come in with a cul-de-sac and cut some lots off and perhaps

to be able to do two more lots in the back here and in order to do that we would meet our required road frontage for each lot. If I push that lot over another thirty/forty feet I then will not be able to cut a two lot subdivision out and be forced to do a cul-de-sac we would probably not like to do that. There is land in the back there but I think the intention would be to try and just do two more lots in the Board would permit it at some time in the future. The other thing is to move it back again I'm in a situation if you look at sheet #2 I think that makes it pretty clear. The Federal Wetlands are pretty close to almost behind the back door. We would like to try to get a little bit even if it's fifteen or twenty feet of rear before you're actually on the wetlands themselves. For that reason I've chose not to move it back any further. The rest of the comments are pretty straight forward. There was a note regarding disturbance on sheet #2 of #5. It doesn't clarify the stonewalls and vegetation. We've clarified that. There are no lands within five hundred feet that are used for agricultural purposes. We expect to receive approval from Eustance & Horowitz in the near future.

G. Lake: I will go through the Board.

A. Dulgarian: What was the reason for the location on lot #3 why you couldn't put that back any further?

J. Nosek: I had indicated that we couldn't move that back, but to move it back any further would require the need for a pump station. It was the opinion of the Board that to go to a pump station for the sake of moving it back further seems unnecessary and that's why I kept it back. It could be moved back further but to get to the septic system I would have to pump to it.

A. Dulgarian: There are pro's and con's of putting a pump station, we were trying to keep these. This house is within thirty eight feet.

D. McGoey: Yes I know. I would like to have them back further from the road but there is obviously a construction cost to maintain a household pump but it's not unusual. It's something that's being done every day.

J. Nosek: The other two lots have pump stations.

A. Dulgarian: What we're trying to avoid in that type of location of the Town, where it has a certain rural character not throw the house right on the road like you would in a highway development.

P. Owen: Yes. I would prefer to have it back. I don't know if the Board was aware of whether the other two homes had pump stations as well.

J. Nosek: I think they were aware. You can see the plans call for a pump chamber on the plan and details for both. I can modify it either way. The disadvantage of the cost of maintaining of the pump and the advantage is it's further off the road.

P. Owen: I would prefer to see it moved a little.

R. Carr: Yes. I would prefer the house to be moved a little. You could move lot #1 in the northerly direction.

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

R. Carr: Like one hundred feet there?

J. Nosek: You need, minimum lot width is two hundred feet. I was under the impression that we do have lot width with the house situated where it is.

W. Capozella: Personally when it comes to a septic pump system if I had my way I don't think they're the greatest. If I had to look at a home and say I wanted one of those with my personal experience, I wouldn't want it. There's always pro's and con's. In saying that, you are also saying this is not necessarily characteristic in the area. I'm not in favor of a pump system so to move the house back which would require it but there are some homes in the area.

H. Ross: I would like to see the house further from the road. What about turning the house on lot #1.

J. Nosek: If we turn the house I don't think it would particularly look right on the road the side of the house. I think you generally would want the front of the house facing the road.

H. Ross: Perhaps planting in the front to screen the house from the road.

G. Lake: You're saying that stonewall, right?

J. Nosek: The stonewall that's within the right-of-way has to go.

R. Carr: Was that said at the Town Board meeting?

T. Hamilton: The Highway Superintendent doesn't want the wall, right?

G. Lake: Yes.

J. Nosek: This one is actually right on the property line. They might a little bit of a change. I don't know if it has any initial significance but whatever he requires we will do.

T. Hamilton: I see the dilemma with moving the house back and it does meet the setbacks.

G. Lake: Anything else?

T. Hamilton: No.

G. Lake: Pump stations, I think if we can avoid them is the right thing to do. I know we have one here in the Town and to have it fixed costs about ten thousand dollars. I know a house wouldn't be that kind of an expense but when they go bad. I would like to see you can do in the front, maybe try to get that house back a little bit more if you could. Eustance & Horowitz, did you say your approval or not?

J. Nosek: We don't have their approval but it's been submitted to them. I expect within the next three weeks we will have their approval. The question with the Board since I have Preliminary would you consider a Conditional Final Approval subject to Eustance & Horowitz approval?

D. McGoey: We have to wait for Eustance & Horowitz approval.

G. Lake: I don't think we've ever done that without getting that back in. It's up to the Board. I don't know.

D. McGoey: I'd suggest that you wait.

A. Dulgarian: I don't recall us doing it.

G. Lake: When do you think you're going to have it?

J. Nosek: Like I said the plans are in to them and I expect probably in three weeks to have the approvals. Is there anyway we can get on the October meeting, then chances are we will that approval by then.

G. Lake: Our next residential only is October 5th. That's kind of full. Do you think you will have it?

J. Nosek: I think I will.

D. McGoey: It would be a short approval so.

G. Lake: We will put you back on the next residential on October 5, 2005.

MOTION to TABLE for further pending approvals from Eustance & Horowitz made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

10. **ANTONA** - LOT LINE CHANGE - Reservoir Road (32-2-14.1) #56-05

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

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

G. Lake: Go ahead.

J. Nosek: This is two tax parcels and what we're looking to do a lot line change so I don't believe we're creating an additional lot.

R. Carr: You're just putting a new line here on this landlocked parcel.

G. Lake: This piece is landlocked, right now?

J. Nosek: I believe it is. I do have Mr. McGoey's comments.

G. Lake: Go ahead.

J. Nosek: Item #1 is a general comment. The lot line is recommended not to cross over the pond. Recommendation that the width of the flag lot be a minimum of twenty five feet. I don't think we have an objection to that.

G. Lake: How viable a pond is that? Is it full all the time?

J. Nosek: I want to say I can answer that question but I haven't been out there to see it so I'm sure. Future submissions should include right-of-way monuments and iron pins where they are missing at some of the property corners. No problem. Tie into the Town's horizontal and vertical datum. Not a problem. Highway Superintendent comments, which we will get. Actually, I think he just noted that we needed to meet the Town specifications with the entrance which I believe it does. A utility

easement should be shown. I would think the utilities would go within the twenty five foot right-of-way for the piece of property that goes to the back property line.

D. McGoey: Utility lines already are crossing the site for the new house and it may be sharing.

J. Nosek: So if it does cross, we will need an easement. We will take a look at that. Tax lot #15 will be complying with the soils formula. We will put the soils information on the plan. Additional buildings on tax lot #15 should be shown, including the two pole barns, septic and well locations. That's not a problem.

G. Lake: I will go through the Board.

A. Dulgarian: Nothing.

P. Owen: I like the flag lot.

R. Carr: Nothing.

W. Capozella: The house is already under construction.

J. Nosek: Correct.

W. Capozella: What is the actual lot line?

D. McGoey: No, it's landlocked.

W. Capozella: If it's landlocked how can they build a home on it?

D. McGoey: Because it's an pre-existing, non-conforming lot.

J. Nosek: And, he owns both parcels.

W. Capozella: Then, I don't have an issue.

H. Ross: Yes, it's a flag lot.

T. Hamilton: Run your property line around and keep fifty feet on the road. The new Town Law they're looking to change those widths.

MOTION for a NEGATIVE DECLARATION subject to Mr. McGoey's comments and 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

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for a LOT LINE CHANGE (Subdivision) subject to all of Mr. McGoey's comments and this Board's comments made by P. Owen and seconded by A. Dulgarian.

A. Dulgarian: Aye

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

11. **CESCA** - LOT LINE CHANGE - York Road (3-2-15) #60-05

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

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

G. Lake: Go ahead.

J. Nosek: This is basically a lot line change. We're looking to take a portion of property that currently exists on the lot #5 Cesca Subdivision and add it to the piece of property that has frontage on Lo Presti Road, that would be tax lot 37.36. It's approximately 2.26 acres of land that we would be taking off lot #5 and take that 2.26 acres and give it to the piece that has frontage on Lo Presti Road. The reason why we're doing that is because that particular 2.26 acres is the best location to put a home on that piece of property. There is some low lying area here. There's some wetlands by the Orange & Rockland Utility easement but it doesn't sit good for putting a house. The 2.26 acres really makes a nice place to put a house. So by doing the lot line transfer, we're in effect making this one lot I think more conforming.

G. Lake: Mr. McGoey.

D. McGoey: I had a few comments. Lo Presti Road is a public road, right?

J. Nosek: It shows up on the tax map.

G. Lake: Is the whole thing public?

J. Nosek: On the tax map it shows it right up to the intersection as being a separate tax parcel. In other words, the parcels don't go to the centerline of the road. That would lead me to believe that it's a Town road.

D. McGoey: Yes, I think it is. It goes back to a "T" turn around. The septic system to be reviewed by Eustance & Horowitz.

J. Nosek: Correct.

D. McGoey: And you need to specify HDPE pipe.

J. Nosek: With the smooth inserts.

D. McGoey: Concrete monuments. Iron pins to be shown.

J. Nosek: I have no objection to those comments.

G. Lake: I will go through the Board.

A. Dulgarian: Nothing.

P. Owen: Nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

H. Ross: Anything on the flood plain?

J. Nosek: This is associated with the creek here. This is the flood zone associated with it.

T. Hamilton: Nothing.

A. Dulgarian: There's something on the plan that was carried over.

J. Nosek: This is a small 0.09 acre piece that Mr. Martin wants to acquire from the Cesca's as well.

A. Dulgarian: You could have done that also.

J. Nosek: I don't think there's any intention of building. I think he likes the land and wants a little buffer. They agreed to do that.

H. Ross: That lot line?

J. Nosek: That's a separate lot line change and has nothing to do with the other 2.26 acres.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and 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

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for a LOT LINE CHANGE (Subdivision) subject to all of Mr. McGoey's comments

and 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

H. Ross: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES