

TOWN OF WALLKILL PLANNING BOARD

MEETING

OCTOBER 1, 2008

MEMBERS PRESENT: G. Lake, W. Capozella, R. Carr, A. Dulgarian, C. Najac,
H. Ross

MEMBERS ABSENT: T. Hamilton

OTHERS PRESENT: J. Bacon, D. McGoey

1. PUBLIC HEARING 7:30 P.M. - **QUICKVIEW PROPERTIES** - SITE PLAN/SPECIAL USE PERMIT - 307 Bloomingburg Road (3-1-33.11) #25-08

G. Lake: Public Hearing started at 7:40 P.M. M. Hunt read the Public Hearing Notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 99 Tower Drive, Building "A", Middletown, New York 10941, in said Town on the 1st day of October, 2008 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Quickview Properties, LLC, P.O. Box 335, Circleville, New York 10919 for approval of Site Plan and Special Use Permit under Article 249-13 of the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

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

T. Gottlieb: My name is Timothy Gottlieb representing the applicant.

G. Lake: Give us a brief description since the last time you were here.

T. Gottlieb: The proposal is for the construction of a nine thousand square foot warehouse on the Blue Flame property to house antique and classic cars. Mr. Cooley has a long term lease with the tenant.

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

A. Dulgarian: After.

H. Ross: After.

R. Carr: I will wait.

W. Capozella: After.

C. Najac: After.

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

MOTION to close this PUBLIC HEARING at 7:42 P.M. made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

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

T. Gottlieb: Yes I do.

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

T. Gottlieb: The stormwater plans we're finalizing. We will probably get with Mr. McGoey by the end of this week. The wetlands letter we sent a copy to Mr. McGoey. Did you get that?

D. McGoey: I didn't see it.

G. Lake: We did receive it.

T. Gottlieb: It said there isn't any Department of Environmental Conservation wetlands on the site. Landscape plans we have submitted and I believe we went over them.

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

A. Dulgarian: We're not taking any action tonight, correct?

G. Lake: I think the big thing is the stormwater and the "SWPPP".

A. Dulgarian: I still think it's a little bit of an unusual use for that area. It's going to be storage, correct?

T. Gottlieb: Yes.

A. Dulgarian: Now, you said you have a long term lease?

J. Cooley: Yes.

A. Dulgarian: How many years, what is the long term lease?

J. Cooley: Ten and ten.

A. Dulgarian: I have nothing else.

H. Ross: I don't have anything in particular except for the stormwater management.

R. Carr: No. I really have nothing other than my one concern with the traffic flow going into the back.

W. Capozella: I have nothing.

C. Najac: I agree with Mr. Carr. I am also concerned about the traffic flow with all of the uses in there. I want to make sure there are markings in there to make sure what the flow will be.

T. Gottlieb: It's now a use where he's going to be running ten or fifteen cars a day. My understanding is he might take a car out a day.

T. Cooley: He's a single guy and an older gentleman that lives in Kensington Manor

Apartments and he has these cars and he may grab a car a day and drive it.

C. Najac: Are you also using that property for the propane trucks?

T. Cooley: We only have two trucks.

G. Lake: Anything else, Mr. Najac?

C. Najac: No.

G. Lake: Yes. I think we actually talked about the circulation the last time you were here for quite a while. I think the use really is not going to be over bearing on your property or Route 17M. The Public Hearing is closed. Mr. McGoey, the stormwater?

T. Gottlieb: I have that.

G. Lake: So, that has to be done yet.

D. McGoey: The landscape plan has to be added to the set.

G. Lake: Okay. Your Public Hearing is done. You have heard anything else the Board has. At this time we're going to have to table you until you get everything in for Mr. McGoey to review and as soon as you get that done we will get you right back on. I think that's all you're waiting for now.

T. Gottlieb: Yes.

G. Lake: We are short one member so I don't know if he has any different comments but I don't think he does.

T. Gottlieb: My client is going to ask if there is anyway we can get a conditional approval.

G. Lake: Not without the stormwater plan. They have to be in the office in order to finish up. The faster he gets it in the faster we can review it. It's not a big deal for you to get everything in place. The items outstanding are important.

MOTION to TABLE for further review made by C. Najac and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

2. **AOK WAREHOUSE** - SITE PLAN/SPECIAL USE PERMIT - EXTENSION to FINAL - Wes Warren Drive (41-1-16) #54-07

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

G. Bergman: My name is Gerald Bergman with Clough Harbour Associates representing the applicant.

G. Lake: Go ahead.

G. Bergman: We're requesting an extension to our conditional approval.

G. Lake: I'm assuming that you're tied up a little bit someplace else?

G. Bergman: Well, OAK Foods is really Gasho and I think everybody knows that this is to be their new warehouse facility. The economic times the way they are they've cut down on building and it's as simple as that.

G. Lake: Yes. I think everybody is aware of what is happening.

G. Bergman: They own the property and they're not a contract/vendee. They plan to build but they just aren't going to build tomorrow.

G. Lake: Is this your first extension?

G. Bergman: Yes it is.

G. Lake: Mr. McGoey where do we stand as far as . . .does he have all of his preliminary and all of that?

D. McGoey: He's pretty much finished other than a note on the plan.

G. Lake: Okay, so he has something else to add on to the plan. Mr. Bacon, a year?

J. Bacon: Yes, until December 5. 2009.

G. Lake: Let me go through the Board to see if they have any additional comments?

A. Dulgarian: No problem.

H. Ross: No problem.

R. Carr: No problem.

W. Capozella: Nothing.

C. Najac: Nothing.

MOTION to a ONE YEAR EXTENSION for SITE PLAN/SPECIAL USE PERMIT made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

3. **ACCESS MINISTORAGE** - SITE PLAN/SPECIAL USE PERMIT - EXTENSION to FINAL - Gibbs Court (50-2-66) #56-06

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

G. Bergman: My name is Gerald Berman with Clough Harbor representing the applicant.

G. Lake: Go ahead.

G. Bergman: We're requesting an extension of our approval. Again, our client owns the property and just due to our economic times that prevents him from building today. A little bit different here. Mr. McGoey asked us to put a couple of extra things on the plan. Some things that had come up in similar warehouses in the Town of Wallkill and we agree to do that.

D. McGoey: Just so the Board knows, the Building Department got called into one of our mini storage warehouses and found methanol in fifty five gallon drums. They also had acetylene tanks and other various gasses stored on the site. We're going to try and figure out how to get the Building Department or the Fire Department to inspect these facilities periodically.

G. Bergman: Will you please help us with the note you want added?

D. McGoey: Yes.

G. Lake: Okay, so we're adding some notes to this also, then?

G. Bergman: Yes, we are.

G. Lake: Let me go through the Board to see if they have anything.

A. Dulgarian: We're looking at an extension that really won't start until January 3rd?

G. Bergman: Correct.

A. Dulgarian: Have we ever done that before so soon?

G. Bergman: I'm in here for one.

D. McGoey: Due to a six month extension.

G. Bergman: I believe we sent in a letter in June or July and I just couldn't get on the agenda until tonight but . . .

D. McGoey: February 8th it was granted.

G. Bergman: I think it was through July or August.

A. Dulgarian: So, when does your approval expire?

G. Bergman: It already did.

D. McGoey: But he had a letter in during the summer.

G. Bergman: I had my letter in prior to the expiration date.

A. Dulgarian: So, our extension can only go from that first approval anyway?

J. Bacon: When did it expire?

G. Bergman: I don't remember if it was July or August.

J. Bacon: It would be through July 6th.

A. Dulgarian: And, that's the first extension?

D. McGoey: This has to be the third.

J. Bacon: You can give him from July 6, 2008 until January 10th for the Special Use Permit and no further than that.

A. Dulgarian: I really have no problem granting him an extension. I just want to make sure that we're not setting some sort of precedence with a third or fourth. Other than that, I understand what's going on and I have no problem as long as we're doing it correctly.

J. Bacon: On the Special Use Permit absolutely has a finality. A special use for one year and then two extensions of one year each after than and no more.

A. Dulgarian: So, how many of those have they had?

G. Bergman: We had two six month extensions.

J. Bacon: So, instead of getting a year the last time they got six months so they really are entitled to another six months to bring them to January.

A. Dulgarian: Are you allowed to give two additional or two one year additional's?

J. Bacon: Two, one year additional's.

A. Dulgarian: Even though they have two already at six months instead of a year it doesn't matter. We can go ahead and give him a third?

J. Bacon: Yes.

A. Dulgarian: I would recommend a year Mr. Lake so we don't have a problem.

H. Ross: The two six months gets him through January 2008 and then we can give him a year, right?

J. Bacon: You can give him one six month extension then he's good until this January 2009 and if you give a year he's good until July but . . .

G. Lake: Anything else, Mr. Ross?

H. Ross: No.

R. Carr: I have nothing.

W. Capozella: No problem.

C. Najac: Nothing.

G. Lake: Again, I'm going to recommend a year because of the current economic time.

MOTION for a ONE YEAR EXTENSION to SITE PLAN/SPECIAL USE PERMIT made by H. Ross and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

4. **BOWSER** - 4 LOT SUBDIVISION - EXTENSION to FINAL - Bowser Road
(21-1-27.31) #16-04

Cancelled.

5. **O & R UTILITIES SUBSTATION** - 2 LOT SUBDIVISION & SITE
PLAN/SPECIAL USE PERMIT - 325 Shawangunk Road (3-1-44) #23-08

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

A. Lipman: My name is Alan Lipman representing O & R Utilities.

G. Lake: Go ahead.

A. Lipman: We have a two lot subdivision which is not indicated and an application for a Site Plan. The client is proposing to build a substation on the four acre parcel.

G. Lake: Mr. McGoey, when you guys were at the work session and I assume they were there.

D. McGoey: Yes.

G. Lake: The two lot subdivision, you did cover that?

D. McGoey: We talked about it. I needed the soils formula and I've asked for it a couple of times and haven't received it. Again, the subdivision is part of the application.

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

A. Lipman: I don't have new comments.

D. McGoey: You don't have the comments that were issued for this meeting? They went to your engineer, C. T. Male.

G. Lake: Go ahead.

A. Lipman: I've almost gone through this but items #1, #2, and #3 we think we've given the soils formula but we will get it to you if it's not there. Item #4 talks about a landscaping plan. That's something you want to discuss here?

G. Lake: Well, we do have Town standards in the code and have been in effect for about a year and a half.

A. Lipman: Reference to 249-100?

D. McGoey: Yes.

G. Lake: Which we do have to meet the minimum or exceed.

D. McGoey: We will look at that right after we get finished.

A. Lipman: Offer of dedication I believe is shown on the plan.

Unidentified Person: Is it on the plan?

D. McGoey: I see a twenty five foot offer.

A. Lipman: Item #6, there had been an issue raised by Mr. McGoey about a height variance for the towers. Orange & Rockland and I looked at it pretty carefully today and I also talked to the attorney and we think a variance is not necessary.

G. Lake: Right. We talked about this when Mr. Bacon first came in, we did talk about it and actually until Mr. McGoey came in I was actually under the misunderstanding exactly of

what it is, the thing off the one pole about forty feet tall?

Unidentified Person: We have a twenty nine foot structure with an extension that goes to forty four feet.

G. Lake: Right, which I assume it just part of substations like this and I would assume we have them elsewhere.

Unidentified Person: That's correct.

G. Lake: And, I don't know how the rest of the Board feels but I'm not quite sure it falls into the category of a structure.

J. Bacon: It doesn't fall under the category of a building.

G. Lake: Right, because it's not a building.

J. Bacon: The height requirement pertains to buildings.

G. Lake: So, I think we're in agreement there that height didn't pertain because it's not a building per se. I don't know what the rest of the Board thinks about that. It's only a pole and if you look at your set of plans it's a rod more than anything else. It isn't a tower.

J. Bacon: The building height requirement is set a thirty five feet so they're another nine feet with the pole.

R. Carr: It's a rod?

Unidentified Person: Yes.

H. Ross: What's the diameter?

Unidentified Person: It's about three, the rod is only less than six inches in diameter. The actual spear on the top is may one and a half to two feet in diameter. Again, it's meant to be an detractor of lightening and for the station equipment to be protected. It has become standard on all substations.

J. Bacon: It's on sheet #3. Sheet #3 of #12 has the elevation shown.

A. Lipman: Do you see anything on the stormwater?

D. McGoey: You need to identify the soils in the area of the septic system on the existing lot to verify that lot remains large enough to meet the soils formula.

A. Lipman: The lot that is with the house?

D. McGoey: Correct, and the gratuitous offer of dedication is noted on the Site Plan but not on the subdivision. It shows the road parcel but it doesn't say gratuitous offer.

A. Lipman: You want it added to the subdivision?

D. McGoey: The subdivision.

A. Lipman: May I ask a question? I couldn't help hearing about the last applicant with the extension. Do you have a limitation on extensions?

G. Lake: Yes, under the new code and you can turn to Mr. Bacon on that. I will be honest about it. Yes, there are limits now in the code

J. Bacon: For Preliminary Site Plan you have a limit, subdivision and special use.

A. Lipman: What about final?

J. Bacon: Final conditional?

A. Lipman: We don't believe we're going to meet. It could be four or five years. It would seem to me then that this approval will lapse.

J. Bacon: Yes. We can take a look at it

G. Lake: Well, if he's talking four or five years, I think the maximum is three.

A. Lipman: I just looked for that in the code and I didn't see it that's why I asked.

G. Lake: Do you have the new code?

A. Lipman: I believe I do, January 2008.

J. Bacon: It's under 249-40-D-10-C. I think you're right. I don't think that the way the code

is written now. For Conditional Final, it says the Planning Board may terminate it if you don't meet the conditions but it doesn't say "shall".

G. Lake: Let me ask you this then. From here and what you just told me I think there's a couple of things you can do and you might need to talk to your clients to see if they even want to move forward on the process at this point.

A. Lipman: That was the only thing I was debating about.

G. Lake: And also by the same token there are a few items that you must get back to a work session on and clean up anyway. So, what I'm thinking we can table you for tonight, call in and get on another work session and that gives you time for your people to finish cleaning up the comments and then it also gives you time to investigate the time frames of extensions to see if it's going to work for everybody. Then, it won't be an action for nothing.

A. Lipman: It is pretty close to the end.

G. Lake: I realize that.

A. Lipman: It seems to me we would have to come back again if it expires, etc.

G. Lake: If nothing else continue on making this into a subdivision so you have the land for now. That's something you have to talk out but at this point I was going to send you to a work session anyway to clean and straighten up the plans. Just let me go through the Board to see if they have any comments at this point so that when you do go to the work session you can talk about them while you're making your decisions.

A. Dulgarian: My only comment and I know Mr. McGoey will make sure everything is done but I would be interested in seeing what it would look like from Route 17. I can't tell by the landscaping plan. I would like to see some kind of view with the planting schedule.

H. Ross: I am also concerned about the landscaping.

R. Carr: Nothing else.

W. Capozella: What about the noise from the generators?

Unidentified Person: The transformers that we buy are at a premium so the noise levels are

dropped down.

W. Capozella: It's just something I will be looking for. Nothing else.

C. Najac: These transformers are (not clear).

Unidentified Person: Could not hear.

C. Najac: My other question is the plan doesn't show lights. Are you planning on doing that?

Unidentified Person: We do have lighting that would be on only when we have to work at the site.

G. Lake: Wait a minute. There's no security lighting?

Unidentified Person: Unable to hear.

G. Lake: Anything else, Mr. Najac?

C. Najac: No.

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

6. **BEL (Lakeview Estates) - 2 LOT SUBDIVISION - Bert Crawford Road (53-1-11) #64-08**

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

R. Ferris: My name is Roger Ferris representing the applicant.

G. Lake: Go ahead.

R. Ferris: The application is to take the stormwater pond off of lot #7 and to be transferred to the Town.

D. McGoey: Just to add, Mr. Lippert said the Town maintains stormwater management ponds in residential subdivisions. The Town would like to have those on a separate lot rather than an easement to the property. So, they're proposing to subdivide off the stormwater management pond. The only question was leaving the lot to a conforming lot size. Are you able to do that?

R. Ferris: Yes.

R. Carr: This is the policy of the Town going forward?

D. McGoey: Yes.

R. Carr: It won't be acceptable with easements any more?

D. McGoey: No.

R. Carr: Is it the Town Board?

D. McGoey: The Highway Superintendent.

R. Carr: Is it because of liability and also because this is in a drainage district?

D. McGoey: Correct.

R. Carr: Supposedly there is an assessment based on whatever expenditures that were needed to keep it maintained?

D. McGoey: Correct.

R. Carr: Is that affective now?

D. McGoey: That would be a special assessment for the stormwater drainage district. What occurs is the engineer submits a map plan to the Town Board for their approval for the district formation and within that report he identifies the dollars per year per lot and the assessment should equal. The assessor theoretically would establish the tax rate on the basis of that report. I don't know, to date, what they are using but that is there for a guide. It has nothing to do with property value.

R. Carr: I don't know. Something bothers me because we are going to own all of these little basins all over. It doesn't seem right to me.

D. McGoey: Actually it takes the burden off the property owner and also takes the liability off of the property owner.

R. Carr: But it puts the burden on the Town.

D. McGoey: Which we would have anyway because we would have the obligation to maintain the pond even though it was in arrears.

R. Carr: Would be liable on somebody's property?

D. McGoey: I'm sure we would because we have an easement and an obligation to maintain it.

G. Lake: Right. That's what you have to remember. The Town is probably going to get something from somebody to go out and maintain these things.

R. Carr: To maintain it and make sure it functions as a stormwater management pool and not that we own the property and something happens to somebody on that property. I mean, it could be well maintained and something still happens and the Town is then liable and to have these all over the place in the Town. It's sounds crazy to me. Is it something that is going to be in the zone?

D. McGoey: I don't think it's a zoning issue. I would have to look at the stormwater management regulations to see how it's written

R. Carr: And, the Town Board is authorizing this?

D. McGoey: I can't tell you. This isn't the first time we've done this. We did it on the Bergman subdivision.

R. Carr: Out on Route 17K?

D. McGoey: Yes, and also the one on Foster Road.

H. Ross: Would it be one of the County tax options?

D. McGoey: Yes.

R. Carr: And these lots that the Town will own, they don't have to be a build-able lot or do they have to meet any kind of (not clear).

D. McGoey: No. They would have to be able to maintain the stormwater.

J. Bacon: Mr. Carr, the liability would the Town because they would have to maintain the pond.

R. Carr: I would agree that if the Town did maintain them and something still happens and somebody does something stupid there and then sues the Town because they own it. It seems a stretch to go after that if the Town owns the property than if the Town had an easement to go in there once a year.

G. Lake: Yes, but if the Town has the easement and you look at it on a lease basis, if the Town were leasing it they would still receive that responsibility.

R. Carr: But, the Town is not leasing it..

G. Lake: I'm just using that as an example.

R. Carr: What I'm saying (not clear).

G. Lake: If their responsible to maintain it then they're also responsible for what happens there. I think it's that simple. I think that's why Mr. Lippert wanted to go this way.

R. Carr: I don't know. Something is not right.

G. Lake: Are you going to have any problems with any of Mr. McGoey's comments?

R. Ferris: No.

G. Lake: Let me go through the Board.

H. Ross: Nothing further.

R. Carr: No.

W. Capozella: I have a question on the ten foot easement. What is the purpose of that?

D. McGoey: The storm drain encroaches a little bit on the lot and there isn't enough room to maintain that storm drain. Wait a minute. It's a driveway easement. Showed it to Mr. Capozella.

W. Capozella: Okay.

G. Lake: Anything else, Mr. Capozella?

W. Capozella: No.

C. Najac: The way we used to do this is they own the property and we had the right to go in to repair or maintain the stormwater, correct? Now we're not doing that?

G. Lake: Not necessarily. One got sold on a tax sale because the owner of the development decided it wasn't (not clear) so he stopped paying taxes on it.

C. Najac: But that was a separate lot?

G. Lake: Yes.

C. Najac: This one is not a separate lot yet. Right now it's one whole parcel.

G. Lake: The only reason we're doing this is because Mr. Lippert was in charge of these things under all the stormwater management throughout the Town and he decided it's too much of a fight to go out and fight with the Town residents to go one, clean up and repair and maintain these things properly.

C. Najac: I understand what you're saying.

G. Lake: So, this is his request and I think he has the power under the Highway Superintendent Laws to enforce this stuff.

C. Najac: At this point, I'm thinking we may need to discuss this with the Town Board. I understand what Mr. Lippert wants to do and it make sense on his part but we're changing.

R. Ferris: They had the lot sold and the people backed out because of the stormwater pond.

C. Najac: What I want to know is did Mr. Lippert discuss this with the Town Board?

G. Lake: I can't answer that. This surely is not the first one that we've done. I believe this is what we've been doing right along. He got this before that policy was changed two, three or four years ago. This has now become the policy that we have used. It's up to you guys if you want to table it. I will move to table it.

R. Carr: I didn't think it was a policy and we have the authority within the subdivision regulations to create lots that are non-conforming because this is a non-conforming lot? It's owned by the Town I guess that we can say it's okay but basically that's what we're doing.

G. Lake: I don't know. Did the other basins have the proper lot size that we've done in the past?

D. McGoey: I don't remember.

G. Lake: I would probably say, not. Listen, if you have that much of a question let's motion to table and we will get an answer. I will see Mr. Lippert in the morning and try to explain this to him and I will also try and see Mr. Ward and in the meantime, I will have Mr. Bacon follow up also

J. Bacon: I believe there is a section in the stormwater management ordinance that talks about it.

G. Lake: Why don't we find out who gave who the authority to do this so we don't run into this again. This is a simple one to solve in the future. Let's do it right.

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Nay

MOTION CARRIED. 5 AYES, 1 NAY

7. **BARRA** - TWO FAMILY - SITE PLAN/SPECIAL USE PERMIT - Barra Road
(38-2-8) #72-08

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

A. Laporte: I'm with Fellenzer Engineering representing Dr. Barra.

G. Lake: Go ahead.

A. Laporte: They're seeking a Special Use Permit approval. There is currently a bigger lot across from the residence at 10 Barra Road and are proposing a two-family residence there. We had received comments from Mr. McGoey.

G. Lake: Okay. Do have any problem with any of those comments between now and the Public Hearing?

A. Laporte: No.

G. Lake: Are you going to be able to take care of those comments between now and the Public Hearing?

A. Laporte: Yes.

G. Lake: Let me go through the Board.

A. Dulgarian: I will address them at the Public Hearing.

H. Ross: I have a question. The plan shows proposed driveways and gravel parking which seem to be overlapping. Can you clarify that in the future?

A. Laporte: There is an existing gravel driveway.

H. Ross: I wasn't sure.

G. Lake: Anything else Mr. Ross?

H. Ross: No.

R. Carr: Is this water from the City of Middletown?

A. Laporte: The Town of Wallkill.

W. Capozella: I have nothing.

C. Najac: Nothing right now.

J. Bacon: The water and sewer is fully from the Town of Wallkill?

A. Laporte: The Town of Wallkill.

G. Lake: Mr. McGoey, do you need them back to another work session?

D. McGoey: Yes.

MOTION to schedule a PUBLIC HEARING for November 19, 2008 made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

8. **SAWKA** - 5 LOT SUBDIVISION - 57 Hubbard Road (6-1-24.23) #48-02

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

K. Eppenbach: My name is Kurt Eppenbach with Fusco Engineering. I'm here to present this project.

G. Lake: Bring us up to speed with what changes you have done since the last time you were here and now? Mr. McGoey, are we in fairly decent shape?

D. McGoey: Yes. They're ready for Preliminary Approval. You will have to make sure the Highway Superintendent between Preliminary and Final is happy with the roadway.

G. Lake: Go ahead.

K. Eppenbach: Basically, we've addressed all of Mr. McGoey's comments. The only thing outstanding other than the approval letter from Eustance & Horowitz on the septic systems which we submitted under a separate cover. We got a preliminary letter from Eustance & Horowitz in the form of a fax this afternoon however, it hadn't been reviewed yet. It's just a preliminary letter. We will be addressing those comments along with some of the things that Mr. McGoey had asked for in his comment letter.

G. Lake: You don't have to go through everyone but you're going to have to meet these. Are you going to have a problem with any of those?

G. Lake: Do we have an extra copy of the Highway comments? Copy given to Mr. Eppenbach.

K. Eppenbach: I believe they were some of the comments that Mr. McGoey had.

G. Lake: Right but this came in a couple of days ago and I wanted to make sure you had it.

K. Eppenbach: No, I haven't received this one yet.

G. Lake: That's why I wanted you to take it so you would have it.

K. Eppenbach: I'm looking for the last letter I got from Mr. McGoey in which he mentioned that the proof rolling be witnessed for the sub base and again for the top pavement.

D. McGoey: You just need that note on the plan and straighten out the Highway Department comments between now and Final.

K. Eppenbach: I had met with Mr. Lippert with regard to this subdivision and turning it into a Town road.

G. Lake: Okay. In order to do that you have to meet all the stipulations in the Highway Comment letter so it will all have to be put on the map. That's what I'm saying. You have to have that done for him to accept this road. That's all we need to know. I will go through the Board.

A. Dulgarian: Nothing.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: We seen it a number of times.

C. Najac: You're questioning the runoff

D. McGoey: Yes. It's a typical stormwater management basin. A central collection system.

C. Najac: A stormwater pond?

D. McGoey: Yes, to be maintained by the Town. Explain how you're handling the stormwater?

K. Eppenbach: Currently the pond does not require the amount of disturbance that's being proposed . Additionally the amount of runoff from the existing road will be put in a stormwater retention pond. We can discharge it into the existing drainage channel by using the outpost structure. There are basically three catch basins that are proposed will also act as part of the collection system.

C. Najac: You're using the catch basin as you're (not clear).

K. Eppenbach: In a way, yes. That's basically what is happening.

D. McGoey: Mr. Najac, I will check it between now and Final. I will get an answer.

C. Najac: Okay.

G. Lake: Anything else, Mr. Najac?

C. Najac: No.

G. Lake: Mr. McGoey, that falls under the stormwater management?

D. McGoey: That's what I'm going to check.

H. Ross: What's the length of the cul-de-sac?

K. Eppenbach: From the beginning of the road to the end it's a little over seven hundred feet.

H. Ross: Is this near the Shawangunk Kill?

K. Eppenbach: Yes.

H. Ross: Will there being any disturbance to the Kill?

D. McGoey: I'm going to take another look at it.

G. Lake: Anything else, Mr. Ross?

H. Ross: No.

MOTION for PRELIMINARY APPROVAL subject to all of Mr. McGoey's comments, this Board's comments and the Highway Department comments made by W. Capozella

and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

9. **WALLKILL STAY INN & SUITES** - SITE PLAN/SPECIAL USE PERMIT -
Crotty Road (60-1-56.2) #92-07

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

J. Pingaro: My name is Jason Pingaro from Eustance & Horowitz for the architecture of the Wallkill Stay Inn & Suites.

G. Lake: Why don't you, it's been here a few times but it's been a while since you've been back so, why don't you bring us up to speed and then Mr. McGoey has some comments here and we will go from there.

J. Pingaro: The last time we were here we were working with the two lot subdivision of the parcel with the lot line adjustment. At this time we're looking for a Site Plan/Special Use Permit. The site that we're working on now is approximately fourteen acres. It's in the OR and Enterprise Light zones and what we're proposing is a two hundred thirty eight room hotel with conference and banquet facilities.

G. Lake: The banquet, was that in the original? I didn't think it was.

Representative from Wallkill Stay Inn & Suites: The banquet facility was in the original and also a recreational facility with a pool on the rooftop.

G. Lake: Right.

Representative from Wallkill Stay Inn & Suites: And, in fact, in answer to one of the fire inspector's questions, the banquet facility is designed for six hundred. Everything happens in building #2 on the second floor and the smaller portion of the ground floor. On the second floor there is a six hundred person banquet facility, a three hundred person restaurant, kitchen facilities and then down on the lower level is the banquet entrance and there are two conference room centers each holding one hundred people.

G. Lake: Okay. I don't know why. For some reason I didn't think you were going to have a restaurant there and we were just talking about it earlier.

Representative from Wallkill Stay Inn & Suites: I think you're right but the Board had suggested we do that.

G. Lake: Okay. I think it's a plus myself. I just couldn't remember. Personally, I think it's a wise move.

J. Pingaro: Basically we have about twenty percent lot coverage, forty one percent impervious and we do have some issues that have come up in regards to fire. We just received comments from the Fire Department just today. We met with Mr. Jaques to discuss the fire department and fire zone requirements. We have added some of that stuff to the plan probably since the plans that you've seen including widening the aisles to twenty six feet and we've included some fire accesses for the fire vehicles. The additional comments that we will talk about shortly had to do mostly with mechanical stuff for the fire suppression and fire alarm protection. We have stormwater here. We have a typical stormwater pond to handle a lot of the roof drainage although there are green roofs there still will be some discharge and that will be handled into the pond. Additionally we have some bio-retention areas in the islands here and along the outskirts of this parking area that will handle the water quality for those portions of the site and those discharging to some underground detention structures which will eventually discharge out to the stormwater pond. Water and sewer for the project is located in Crotty Road here. It's existing and I think there is a eight inch sewer and a twelve inch water line in there. We have submitted plans to the Water and Sewer Department. We have a meeting scheduled with them later on in October to review their comments.

G. Lake: On your meeting with the Water and Sewer Department Superintendent, is that one

of your work session with them or is that separate?

D. McGoey: We will get it together.

G. Lake: Okay, so it's all in one, good. I just wanted to make sure that's how we did this one. Do you have Mr. McGoey's comments?

D. McGoey: I don't think you have to go through them one by one. Is there anything there that may be an issue?

J. Pingaro: We don't have an issue with any of them. We would like to get the Board's feeling on item #7 on the environmental review.

D. McGoey: Part III, if they are in agreement, should be a little more detailed than what you have.

J. Pingaro: Okay.

D. McGoey: The stormwater management report should be made a part of Part III along with the traffic analysis, erosion control, water and sewer issues.

J. Pingaro: The stormwater report will probably take care of most of those issues.

D. McGoey: That's right. You can make that as part of the Part III.

J. Pingaro: Sure. The water and sewer issues I guess we will tackle when we meet with Mr. Ingrassia?

D. McGoey: Yes, and then you can verbalize that in the engineering report and any traffic issues should be in the Part III. Any wetland issues but I think you're avoiding the wetlands but I think it should be discussed in Part III.

J. Pingaro: Just in regard to that, there is about two and half acres of wetlands. It's a little further up here. We do have a small bit of disturbance here. We only have about eight hundred feet of disturbance. It's well within the limits. It is shown on the plan.

D. McGoey: You probably will need a jurisdiction of determination on that.

G. Lake: Let me go through the Board.

A. Dulgarian: First off, I really like the project. I think it's very interesting and very different from what we've seen. Having said that because it is so different, has the landscaped plan been sent to Behan on it?

G. Lake: I spoke to Mary Lynn earlier tonight. I wanted to wait until after tonight's meeting for any comments you guys had and then send it up. Again, I'm going to send it up and try to get it back as soon as we can on the landscaping.

A. Dulgarian: Also, tying in the landscaping, can you just go over with me the parking calculations and you're proposing two hundred fifty. You don't have to put it up but just explain to me how you came up with three hundred fifty?

J. Pingaro: I think it's your requirements or I picked them up after discussions with your Board.

A. Dulgarian: One you show three hundred thirteen and the other you show two hundred and you ended up with two hundred fifty, right?

J. Pingaro: Well, both are required and then we have what is proposed. I think there were three hundred thirteen spaces required and we had proposed three hundred fifty which has now been reduced slightly due to the fire zones we added. We reduced about twelve spots.

A. Dulgarian: Here's my concern and here's where I'm going with that between landscaping and the parking. Again, we have a project that's very unique and very, very nice. You're talking about forty one percent of impervious surface on this property. I would really like to see that knocked down somewhat. What you're keeping is the wetland in the back. I don't know if there is anything creative like breaking that center what you call a driveway parking lot. I just think if we can cut that down, that's very important to me. Also, the snow storage with the size of this, the wetlands involved and the amount of landscaping I think you will have to get really creative with that as well. We have a problem as a Board with an applicant spending a lot of money on landscaping and then dumping all the salt and snow and killing the landscaping and then we lose what we're trying to achieve. Mr. Lake, again my concerns are the amount of parking, the amount of impervious surface, snow storage and landscaping. Again, it's only increased because the project is so nice that these things should be more closely looked at. I really like the project. We have one shot of getting it really nice.

J. Pingaro: If I may comment on that, the reason for the large amount of parking is because there is extended stay hotel rooms and banquet facilities all here so it's kind of hard to judge

exactly how much will get used all at one time. In regards to the impervious calculations all the roadway and parking lot areas will be made with a pervious pavement type material.

A. Dulgarian: How do you stop that from clogging the sewers?

J. Pingaro: I guess it would have to be pressure washed out every season or so.

A. Dulgarian: Whoever is recommending that, I would like to see the literature on what they're proposing because we would love to see more of that but it isn't in the northeast right now. I know you're going in the right direction. I just want to see how it actually plays out.

J. Pingaro: Additionally, we set a median here and along the outside edges here, a bio-retention area. It will be a fully planted area which really will help to break up the parking area on this side.

A. Dulgarian: How close is that to the parking?

J. Pingaro: This median is about fifteen feet wide and there is about a two or three foot buffer strip on each side as well as a planting area.

A. Dulgarian: The grade of the parking lot?

J. Pingaro: Yes, basically the parking lot will slope down. We had talked about some bollards. What we're talking about now is a concrete curb with some gaps to allow sheet flow in there. It provides treatment for the water, quality treatment so the water ends up down here in a closed detention system of a pipe network.

G. Lake: Anything else, Mr. Dulgarian?

A. Dulgarian: No.

J. Pingaro: The landscape plans now don't show that. They haven't been updated to include that by a retention planting.

A. Dulgarian: Those are really my concerns but again, I like this.

G. Lake: Let's get back to your landscaped plan. I'm going to need a copy of your latest landscape plans to send up to our Landscape Architect. I'm glad Mr. Dulgarian and you just talked about this because I was going to send up one that we had.

J. Pingaro: Okay. We will get that to you right away.

G. Lake: I would much rather send up the latest and the greatest.

J. Pingaro: We will include a lighting plan with that as well. In regard to snow storage, we agree that the snow storage that we've shown may be limited. The area that we have to work with is somewhat limited. One thing that we discussed in our office was possibly using some of this area over here for snow storage behind the dumpster. It could be off-site if the Board was responsive to that. We will have equipment and maintenance men and trucks and that kind of stuff on site all the time. Relocating snow over here which is kind of like off-site for snow removal but it's still our property is another option.

H. Ross: I like this project and where it's at.

R. Carr: It's a very interesting project and it will be a nice addition up there. Mr. Dulgarian brought up a good point on the snow removal. It's very interesting and all the important points were brought up.

J. Pingaro: The bio-retention and the plants and the toleration of the salt and what not is accounted for. It is an accepted practice and there are specific plants that would be required there. It all would be specified. In regards to the pervious pavers, one of the main issues I heard about was salt toleration and the understand how salt interacts. Being that it is our own private parking lot the maintenance that we do there we can regulate our salt by how often we plow and minimize salt usage to increase the life span of the pervious pavement.

A. Dulgarian: If I may, although I agree you probably looked into salt resistance of plants and everything it still doesn't show it could get hit by a bucket load of snow. You can give us all those facts in the world but we've seen great landscaping that's gotten knocked down and they don't put them back. Snow storage for us is to be away from the planting.

G. Lake: Anything else, Mr. Carr?

R. Carr: That's it.

W. Capozella: I did have some comments but I believe that they've been addressed.

C. Najac: I do agree they have done a good job. Have you worked the numbers to reduce the

stormwater?

J. Pingaro: Actually the way the pond is designed now, it's capable of handling all the drainage whether they were green roofs or not. We will have an added factor of safety when they're incorporated. There will be reduction if we actually did some research with hyrotech and I think they indicated minimally a fifty percent reduction in the stormwater runoff plus the added benefit that it comes out clean because it goes through the process.

G. Lake: Anything else, Mr. Najac?

C. Najac: That's it.

G. Lake: Yes. I think this project has always been looked upon and favored by this Board for how unique it is. At this time, you've heard the comments from the Board and I guess you have to get back for another work session.

D. McGoey: Yes. We have a few SEQRA issues so, the Board can't take any action until we get through the Negative Declaration. Mr. Bacon, brought up a good point on the SEQRA long form. You should add the short preservation to the long form.

J. Bacon: Yes. You may want to start with Department of Environmental Conservation Natural Areas program.

D. McGoey: The traffic study and how it affects the intersections. Crotty Road and Crystal Run Road it not a good intersection. Crotty Road and Goshen Turnpike is not a good intersection.

G. Lake: I guess now you are already on for another work session?

J. Pingaro: Yes we are.

G. Lake: What I'm thinking is bring everyone one in for that work session including our traffic person at this point. This way all the important issues can be taken care of and we can dedicate a little more time to try and move this in the right direction.

D. McGoey: Right.

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

10. **BURGER KING** - SITE PLAN REVISION - 281 Route 211 East (50-1-27) #41-08

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

J. Rouse: My name is Gary Rouse from GBC Design and I'm the Site Engineer along with Jim Meinecke from Carrolls Corporation sand the Real Estate Manager and Steve Esposito.

G. Lake: Go ahead.

J. Rouse: Jerry's Steakhouse out on Route 211, Burger King is going to lease part of the land which is being consolidated and become part of a larger parcel. Burger King wants to put up a new Burger King reflected in the Site Plan submitted.

G. Lake: What has also happened there is a dedicated Dodge Drive. We looked it up tonight on the map a little bit. It is there. We had Mr. Lippert at a meeting where he kind of indicated. I don't know whether you want to turn this over to him. The concern is what is the future of the back. Mr. McGoey, Mr. Lippert was willing?

D. McGoey: Mr. Lippert was favorable in turning over the road. In fact it is Town property.

G. Lake: It shows it on the map. I don't think we need to go through all twenty nine (29) comments. I think between now and the time when you come back you should be able to clean them up totally. I know we need to get you to the Zoning Board of Appeals and, Mr. McGoey on the Zoning Board of Appeals, I think I was still a little unclear as to how many

variances we were looking for.

D. McGoey: I'm a little unclear too because I think it may depend upon whether Dodge Drive is part of the property or it's not part of the property. If it's not part of the property then it has a different setback.

J. Rouse: At a worse case scenario there would be a ten foot variance required on the side for landscaping and on the left side for landscaping. Like Mr. McGoey is saying if Dodge Drive if and when it would then go down to one variance. I believe that we meet all the other requirements.

G. Lake: On Dodge Drive, let's go back to that for a second. Have you started or have you had any more conversations from the time that we had that work session with Mr. Lippert or the Town Board to find out what we're going to do with this?

S. Esposito: Yes. On the 24th of this month we sent a letter to the Town Board and a copy to the Highway Superintendent regarding our intentions of to prepare a claimed deed and submit that to the Town. (Unclear).

A. Dulgarian: You want the right-of-way also. You want to use the property.

S. Esposito: All that is there now is the right-of-way.

A. Dulgarian: Do you own the property in the back?

S. Esposito: Yes. There are three tax map parcels which will be consolidated for this application.

J. Bacon: Dodge Drive (not clear).

S. Esposito: It was dedicated to the Town I believe it 1966 and there's no record of the Town . . . It has tax map 0-0-0 so, we take that as being owned by the Town.

J. Bacon: They might go ahead and accept it and turn around and give it back to you guys?

S. Esposito: In our letter it describes that.

G. Lake: You have started that process?

S. Esposito: Yes.

D. McGoey: You failed to talk about the variance for the driveways. They must be ten feet from the property line so, that would be another variance. You may want to check to make sure you don't need any other variances. That's not our job to identify all the variances needed.

E. Esposito: We're identifying that. I thought I identified them all. Thank you for pointing that out. I don't know of any other. I went through the code pretty closely.

D. McGoey: Sign variances, you may want to do that at the same time.

S. Esposito: Again, I don't know of any other variances for signs or otherwise. I submitted to the Town Planning Board with my submittal the drainage analysis. I don't know if you did receive that. I have an extra copy.

D. McGoey: I think we did and I turned it over.

G. Lake: Let me go through the Board.

A. Dulgarian: Where do I start? What we're looking at on page #3 is not the entire site plan.

G. Rouse: It is the entire site for what we're applying for which is to tear down Jerry's Steakhouse and put up a Burger King.

A. Dulgarian: Well, didn't you just tell us you're joining the three lots?

G. Rouse: Yes. That's on one of the last pages, the consolidation of everything. All we're trying to do is get a Site Plan approved for the Burger King. The other things that would have been done have been at the request of the Town.

A. Dulgarian: Because it's in good planning if we were to see the full project. Mr. Lake, I mean we have twenty nine comments from Mr. McGoey. We have a very cluttered plan. I would like to know what that Dodge Drive was going to be first.

R. Carr: If I'm correct, you're going to take over Dodge Drive?

G. Rouse: That's right.

G. Lake: Which is on their property.

A. Dulgarian: If he obtains Dodge Drive the lot configuration will be totally different.

G. Lake: I don't know what their deal is with it. I think it's up to us to make sure. The reason Dodge Drive was talked about at a work session was because they mentioned in the back something may happen so we asked them to show us what could happen. They have no plans of doing anything right now I understand but like so many other applicants we ask them to turn around and show us what could happen and then at that point we knew when they came back at the next work session that Dodge Drive was an important part to the whole shooting match. Now, if they can nail this down and make it work and stuff like that or if it changes their setbacks. I don't know if this is going to be a long term lease where they're showing you right now off the rest of it or not but I mean . . .

A. Dulgarian: And, I think he handled that correctly. Here's my point. Right now we're looking at an ingress that the patrons are going to back way out into all these parking spaces. If we had more room to work with Dodge Drive that may not happen or the configuration would be a little different. We're run into a lot of problems in Town with vehicles stacking, vehicles pulling out into the through lane and most of it happens because it's either an undersized lot or an irregular configuration and I think we're looking at both with this. I just think there is an opportunity to get this better. I don't know exactly what you're looking for from us tonight other than the Zoning Board of Appeals. I think this could be a lot better than what we're looking at.

G. Rouse: The existing Burger King has a six car stack. We have a ten car stack shown plus the ability, if cars were stacked all the way out to Route 211.

A. Dulgarian: They would park along the side of the building, correct? They would park in the front and in the back. You're showing parking along the side of the building.

G. Rouse: That's correct.

A. Dulgarian: That is the back way to the driveway as you're coming in.

G. Rouse: Yes. The first parking spots are mainly for when you get your order, etc.

A. Dulgarian: We've just been bit a few times by layouts that are . . .

J. Meinecke: I do want to make sure everybody understands. What we are trying to do is to get approval for a Burger King. The other things that we have done has been at the request

for good planning for the Town but if it could happen in the past that way, what will happen with everybody's approval is the Burger King.

A. Dulgarian: I understand. That's all I have.

G. Rouse: You mentioned the stacking at the drive-thru. We actually went out and studied another competitor that has stacking all the way out to Route 211 and we found three issues with the other chain. One of them was they didn't have the ability to come out of the stacking if something got held up. We have a by-pass lane that they can come out of that stacking lane so it doesn't back up at all. We have added cars to the stacking without ever getting out of the parking lot so, we have a ten car stack and then we put the parking in the front of the unit where if somebody had to. Let's say that they were waiting for an order, we could move them up or have them sit in a parking space out of the drive-thru lane to keep that flowing. That was the three things we saw that the competitor basically didn't have that caused their backups.

A. Dulgarian: Yes. We know and we're part of that.

G. Rouse: We feel we have looked into it and have done a proper job to make it a lot longer than . . .

A. Dulgarian: I don't want to get into a debate with you here just sending you to the Zoning Board of Appeals. My point is not only stacking. I just brought that up because these type of lots happen because you're still backing up into the lane that they're coming in no matter what. There's not that much room. That's the point I was trying to make on an undersized, irregular configured lot. That's all I have to say about it.

H. Ross: First, is the only Burger King going to come down?

J. Meinecke: We're on a month to month lease there that's going away. We can't get it renewed.

H. Ross: I just want to be clear on these three buildings with the specified uses in the back. We want to look at a Site Plan that includes the Burger King as well as these other three lots that you're not asking for at this time.

S. Esposito: That's correct.

R. Carr: I just think the project is really tight. It's not often that a new building in that part of

Town is being built and that we're going to take the Burger King from next door and re-build it right there. I would think we would have wanted something a little different. I understand what you're saying about the waiting but you also have people backing into the traffic that's coming in. It just seems congested. The traffic, it's a real tight spot. I don't know. To me it's really tight. If you can do something with Dodge Drive to pick up something there. That I think has a lot of possibilities. I don't even know the exact properties look like there. From my point of view I think we should try to make it different than it does now and not just move the old Burger King over. That's my position.

J. Meinecke: Where is this parking that you're saying is backing up into . . .

R. Carr: The parking lot in the front.

J. Meinecke: You're talking about the access road and not into, okay. I thought you were saying into Route 211.

R. Carr: No. I just think it's a bad parking lot where everybody is backing up trying to get around.

J. Meinecke: This is a one-way so, it's not like you would have somebody backing up.

R. Carr: You have people coming in from Dodge, right?

J. Meinecke: They can come off.

R. Carr: Can they get to the drive up window?

J. Meinecke: Not at all.

R. Carr: How do they pull into a parking spot if they can't make a left?

J. Meinecke: Coming around the drive-thru you mean?

R. Carr: Yes.

J. Meinecke: That's the by-pass lane. It's just for the drive-thru. It doesn't wrap around the building.

R. Carr: But if I come in off of Dodge Drive to park?

J. Meinecke: You can.

R. Carr: To me I just don't like it. It is a strange little lot. To me, it's very congested in there.

W. Capozella: I will concur with Mr. Carr and Mr. Dulgarian and leave it at that.

C. Najac: I have a concern with the parking. Also, you have an exit coming out of the building right in front of the drive-thru. Right in front of the pick-up window.

J. Meinecke: Yes.

C. Najac: I have a problem with that.

G. Lake: You want to go to the Zoning Board of Appeals. Basically you've heard the Board. I don't think they're really happy with the Site Plan. If you decide to continue on and go before the Zoning Board of Appeals you may or may not get the variances and when you come back it doesn't necessarily mean that we're going to accept the Site Plan so I do want you to know that if you decided to continue on.

MOTION to send applicant to the ZONING BOARD of APPEALS for the required variances on this particular Site Plan made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

11. **ORCHID ESTATES** - 5 LOT SUBDIVISION - Fair Oaks Road (14-1-72) #87-02

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

D. Getz: My name is David Getz with Lehman & Getz Engineering.

D. McGoey: Just give them a little history.

D. Getz: Sure. The project is a five lot subdivision plus a lot for the stormwater basin. On October 2006 your Board gave Preliminary Approval and in 2007 Eustance & Horowitz approved the sewage disposal system and in January of this year we received Final Approval.

At that meeting we received comments regarding the lot lines. It has a cul-de-sac road. You weren't happy with the layout. We went to the Zoning Board of Appeals and received approval for variances for lot frontage on lots #2 and #3 which allowed us to straighten out those lot lines as you see on the plans we submitted.

G. Lake: So, what are we doing?

D. McGoey: We need to start Preliminary Approval.

G. Lake: Let me go through the Board.

A. Dulgarian: Mr. McGoey?

D. McGoey: He lost Preliminary.

J. Bacon: Preliminary Subdivision Approval expired in 2007. We gave him Preliminary Approval in October 2006 but he didn't get in another request for an extension so it expired. They put in a new application and then we had a Public Hearing on January 15, 2008.

D. Getz: We feel from the technical point of view we've addressed Mr. McGoey's comments. One of the questions he had was regarding Eustance & Horowitz's review. I have a copy of their letter in the files.

G. Lake: Let me go through the Board.

A. Dulgarian: One simple little question. Lot #2, that driveway can be right on the lot line?

D. McGoey: Ten feet from the property line. There should be a ten foot dimension.

A. Dulgarian: No. He's got the setback for the house that just makes it. I believe the driveway is right on the lot line.

D. Getz: You're right. Sheet #1 and sheet #3 both show that driveway very close. We can revise it.

G. Lake: Can you make that work?

D. Getz: Yes.

H. Ross: Let's start with the site distance.

D. Getz: We studied that about five or six years ago.

H. Ross: Is it at the actual speed or the posted speed?

D. Getz: I believe the actual requirements are for the actual speed.

H. Ross: The retention pond and this is for you also Mr. McGoey. Is this the same situation with the retention pond that we're not making it a supporting lot?

D. McGoey: No.

H. Ross: It's the same issue that we had with our first visit of the evening?

D. Getz: I checked our files when we filed our new application. We originally had a seven acre lot there and last August we were directed by your Board to separate that into two separate lots.

H. Ross: I don't want to hold you guys up for this but I just needed clarification.

R. Carr: It's the same issue. It's weird. We've making the Town have property without knowing what the Town Board unless Mr. Bacon you can check to see if it's in the stormwater requirements. The Town can own the property.

D. McGoey: I think it's optional.

J. Bacon: Yes, it's optional. It's just one paragraph. Let me get it out.

D. McGoey: Do you have any other questions while he is looking that up?

J. Bacon: The Town of Wallkill and through a maintenance agreement has total discretion to

make such dedication of any stormwater management facility provided such facilities result in the requirement of the Article and was adequate for access to a specific area by easement or otherwise for inspection and regular maintenance.

G. Lake: But it doesn't say who authorized it?

J. Bacon: No. It just says the Town of Wallkill so it doesn't even say the Planning Board.

D. Getz: If I can read from a letter I received on August 1, 2007. The requirement of the Highway Department for the stormwater management pond be on a separate lot and owned by the Town rather than remain as part of lot #1. The plan must be revised to show it on a separate lot.

G. Lake: Yes, I realize that but I don't think that's the issue. The Planning Board is now trying to figure out even from the first gentleman that was here who authorized this land to be turned over to the Town and does the Town really want it. There's no place where the Town went in that direction. I think I've simplified it. Let me go through the Board. I mean we tabled one applicant tonight under the very same thing. I think it would be extremely unfair for the first applicant when we have the same situation.

W. Capozella: I agree that we need to straighten it out.

C. Najac: I just think we need to know where we are with this.

G. Lake: I'm going to agree. Since we've already put one applicant on hold until we figure this out. I do agree we're putting ourselves in a terrible situation if we turned around and said, of well, and an hour and a half later we're going to forget what we did two hours ago. I'm going to recommend to the Board that we table this until Mr. Bacon and everybody can get the right information and we know where this came from. We know the Town wants it and I'm not putting this Board in a situation with one applicant over another applicant to find out that we just let somebody walk in and out an hour later. Fortunately you're the guy that is here now.

D. Getz: I will go back through my records.

G. Lake: I can't see you doing all that work because the problem isn't solved. Unfortunately nobody has any knowledge of it as being directed from the Town Board. I'm going to recommend to the Board that we table this until we get this detention pond straightened out.

A. Dulgarian: I concur.

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

G. Rouse: