

TOWN OF WALLKILL PLANNING BOARD

MEETING

OCTOBER 4, 2006

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

MEMBERS ABSENT: None

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

1. PUBLIC HEARING 7:30 P.M. - **ORCHID ESTATES** - 5 LOT SUBDIVISION -
Fair Oaks Road (14-1-72) #87-02

G. Lake: Public Hearing started at 7:38 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 in said Town on the 4th day of October, 2006 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of I Can Get It For You Wholesale, Inc., P.O. Box 296, Washingtonville, New York, 10992 for Preliminary Subdivision approval of Orchid Estates Subdivision, located on Fair Oaks Road, approximately six hundred feet west of Route 17M under Chapter 137 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: Do we have the mailings?

M. Hunt: Yes.

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

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

G. Lake: Just give us a brief description since the last time you were here and tell the Board what you wish to do.

D. Getz: It's a parcel of about thirty two (32) acres with frontage on Fair Oaks Road. Five

lots are proposed on the project. There are no buildings currently on the property although there is an existing gravel driveway. Since our last appearance we've made some minor changes. We've actually changed the road to line up with the existing driveway to reduce the amount of paving that would be needed. We've also sent plans to the Conservation Committee and talked to the Highway Superintendent.

G. Lake: Before I go to the Public, let me go through the Board.

A. Dulgarian: After the Public.

H. Ross: After the Public.

R. Carr: After the Public.

W. Capozella: After the Public.

C. Najac: After the Public.

T. Hamilton: After the Public.

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

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

G. Lake: Mr. McGoey, your comments, are you satisfied at this point?

D. McGoey: Well, there are a few minor issues. The road width, do you have any problems with my comment on the road width?

D. Getz: We will provide what ever he wants but that has been discussed back and forth.

D. McGoey: The road width will have to be resolved with Mr. Lippert. He always wanted twenty four foot roadway with three foot shoulders.

G. Lake: Right.

D. McGoey: That will have to be resolved.

D. Getz: We will provide what ever he wants.

D. McGoey: The location of the detention pond that you have in the wooded area, I would like to see that relocated. Mr. Lippert also has comments.

S. LaBruna: We also recommend re-locating the detention pond from the wooded area..

A. Dulgarian: Mr. McGoey, could you elaborate a little bit. They have that two hundred foot setback where they're not allowed to touch in.

D. McGoey: This is not a conservation subdivision.

A. Dulgarian: I'm questioning the stormwater detention pond.

D. McGoey: The stormwater detention pond has been excluded from that. I think if we can get them to push that back to keep the natural woods at that location.

A. Dulgarian: I really don't have anything.

H. Ross: The two hundred feet.

D. McGoey: First of all, this is a conventional subdivision so they're not subject to the two

hundred feet setback. They have given us the two hundred feet anyway.

H. Ross: I understand.

R. Carr: What I see is the retention pond located in a very heavily wooded area. They would have to take down all the trees along the road. I don't know how many more feet you can put it back.

D. Getz: We're limited by the elevation. That's the lowest part of the property. We can certainly work with Mr. McGoey.

R. Carr: That's what I want to know. Sometimes these things happen.

D. McGoey: You should have another opportunity between Preliminary and Final to look at it again.

R. Carr: Okay.

W. Capozella: This is here for Preliminary tonight?

D. McGoey: Yes.

W. Capozella: I have a concern about note #14 on the plan. The cul-de-sac, that's going to be a private road?

D. McGoey: No. It will become a Town road.

W. Capozella: I have nothing else.

C. Najac: Nothing further.

T. Hamilton: Just on that two hundred feet back from the roadway. Can we have something on each individual lot?

D. McGoey: Yes. There could be some language added.

T. Hamilton: What about on each individual lot?

J. Bacon: You want it on the deed?

T. Hamilton: Yes.

G. Lake: The only thing I have is the twenty four foot road and is what the fire departments are asking for. I don't think it's a big deal.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments, this Board's comments and Highway Superintendent comments made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for PRELIMINARY FIVE (5) LOT SUBDIVISION approval subject to all of Mr. McGoey's comments, this Board's comments and Highway Superintendent comments made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

2. PUBLIC HEARING 7:35 P.M. - **WAKEFERN** - SITE PLAN REVISION (Change of Use) - Ballard Road (60-1-120) #58-06

G. Lake: Public Hearing started at 7:47 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 in said Town on the 4th day of October, 2006 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Wakefern Food Corporation, 600 York Street, Elizabeth, New Jersey 07207, by Clancy's Volcanic Snacks International Corporation, 35 Circuit Road, Suite 1B, New Rochelle, New York 10805, and Panattoni Development Company, LLC, 180 Raritan Center Parkway, 1st Floor, Edison, New Jersey 08837, for revised Site Plan approval for a change of occupancy under Section 249-40 of the Zoning Code of the Town of Wallkill to establish a snack food manufacturing use on a portion of the site. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

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

S. Gaba: My name is Stephen Gaba representing Wakefern.

G. Lake: Go ahead.

S. Gaba: The property is the Wakefern warehouse on Ballard. It's in the M-I district and what we're proposing to do is to take a portion of the warehouse and change the user which was formerly Wakefern to Clancy's Volcanic Snacks. We came in August before the Board and made a presentation on this. We're prepared to go through that again if the Board would like us to however, I'm not familiar with your procedures.

G. Lake: We just want to go through the Site Plan and then I will want to open it up to the Public.

S. Gaba: Make a brief presentation on the project a little bit.

G. Lake: Tell us exactly what you're going to do there.

S. Gaba: We have with us our engineers Mr. Justin Dates and Mr. Andrew Featherston.

J. Dates: This is the current Wakefern property. We're looking to modify just a portion of the smaller of the two warehouses, approximately eighty five thousand square feet. We're not doing very much changes to the site. What we're going to do is re-face the car and truck parking areas directly outside. Based on the square footage required, one hundred car spaces and five loading spaces and meets the requirements of the code.

G. Lake: Let me go through the Board and then I will go to the Public.

A. Dulgarian: After the Public.

H. Ross: After the Public.

R. Carr: I will wait.

W. Capozella: After the Public.

C. Najac: After the Public.

T. Hamilton: After the Public.

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

MOTION to close this PUBLIC HEARING at 7:50 P.M. made by R. Carr and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

G. Lake: Mr. McGoey, your comments

D. McGoey: My biggest issue is we still haven't received an adequate response to the water and sewer issues. Mr. Smith has also written a letter that it was not resolved.

P. Sherry: What we're going to be doing, because of the new equipment there is no laboratory testing on the equipment for the affluent going out. I gave Mr. Smith a confirmation on that and I also let him know that we're putting in before it's discharged (not clear). It's not a lot of discharge. We're going to take that water and we're going to re-cycle it. After the re-cycling, we're going to have a starch recovery program. It will meet all standards. We will also have a water purification system. The only thing that Mr. Smith brought up to me is that he wanted more information and to have the system tested before we went operational which is fine. He wanted us to put in five foot manholes so he can get to the sewer system and that can be tested at will. We have no problem with that. We can put in treatment that will make (not clear).

G. Lake: Mr. McGoey?

D. McGoey: We need something from Mr. Smith. His letter dated October 2, 2006 says he's not satisfied.

P. Sherry: He's been asking for a lab report. I cannot furnish a lab report because none exists.

D. McGoey: Well, you (not clear).

P. Sherry: I said at the last meeting that (not clear) does not manufacture the chips.

D. McGoey: Then, you're going to have to your engineer give me an analysis of some kind and submit it to Mr. Smith.

P. Sherry: I've already talked to someone and I apologize but I don't know who I spoke to today, I believe from the Board, that we meet all Federal and State standards for the discharge and to prove that upon testing (not clear). I really don't know how we're going to get that. Other countries that manufacture chips also manufacture mountains of different types of factories that all goes to the same effluent. I don't have the ability to give you a discharge. We do re-cycling before it ever gets to the discharge.

S. Gaba: What I'm suggesting is you contact Mr. Smith the plans and specifications to the water treatment system that you propose to install in the building. And, if he finds that satisfactory then you will be able to move forward.

D. McGoey: I'm not going to make a recommendation until I get his approval.

G. Lake: The problem is that Mr. Smith and his department has really in the last, not of late though, and not all that long ago has had to track down something getting into the system.

P. Sherry: I understand that

G. Lake: That is very costly to the Town and time consuming. This Board historically normally does not go against their experts and in this case that would be Mr. Smith. I will see if the Board would like to subject to it only on his final approval. I have all the confidence in the world and Mr. Smith has been doing it for some forty some years.

P. Sherry: I agree and I've been in water treatment myself.

G. Lake: In the meantime we are going to need that one hundred percent write off from Mr. Smith before Final approval.

P. Sherry: I agree with that. I don't have a problem with that. What I'm asking the Board is you pick it up at operational so he can fiscally test it and felt that it meets all standards then

we could be operational. If it doesn't you don't allow to go operational. I don't have a problem with that.

G. Lake: Once that kind of money is spent. It's not that easy. Somehow you're going to have to convince Mr. Smith. I think until this is done and like Mr. McGoey said, go to your engineer.

P. Sherry: Okay.

G. Lake: You need to get him to come back to this Board. I will find out if the Board wants to do this subject to and also see what they have to say. Nothing will happen until you and Mr. Smith straighten out and he's one hundred percent satisfied.

P. Sherry: That's fine.

G. Lake: He needs to submit a letter to us that it meets his requirements.

P. Sherry: Sure.

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

D. McGoey: What about odors?

P. Sherry: The odors produced are less than ten pounds per day and is under the "OSD" code 37551505B which means they're emitting very little in the air.

G. Lake: Anything else, Mr. McGoey?

D. McGoey: Nothing.

G. Lake: I will go through the Board.

A. Dulgarian: It's not the best of situations. I like the project. I like to see it go through but I have the same concerns that Mr. Lake has that without approval from our experts I can't even recommend a subject to because it's just giving you the okay to move along without us knowing if it's going if it's actually going to meet his requirements. So, I don't know what we can accomplish tonight on Site Plan but if you can get most of that resolved and when you

do get approval from Mr. Smith then we can move forward. I don't like the subject to without that from Mr. Smith.

H. Ross: I don't like the subject to either. I think we have to be convinced. I have a question about the amount of gallons per hour figure. Is that by an eight hour day, a twelve hour day.

P. Sherry: That's based on operation time per hour.

H. Ross: How many hours?

P. Sherry: We work basically eight hour shifts. Eventually we will be running two shifts. Ninety percent of the water used will be recovered. It's not going to be used as fresh water all the time. That's why we're putting in the recovery system because of the cost of water.

R. Carr: I agree. There are two issues and they are water and (not clear). You have to go to our experts. The other concern I have is the odor. I don't know.

P. Sherry: That's fine.

D. McGoey: I don't know.

G. Lake: Anything else, Mr. Carr?

R. Carr: No.

W. Capozella: I like the project but again we need Mr. Smith to be satisfied on his end.

C. Najac: I don't have anything.

T. Hamilton: If this is a new system and they can't give us the answers to the water how can they give the answers to the odor?

P. Sherry: Because they're two separate systems. Only one system uses water the rest uses kettle cookers and they have the measurements for that.

T. Hamilton: Didn't you use water where it was cooked before?

P. Sherry: We didn't cook it before. It's a new process, that's why we don't have it hand. All we're doing is cleaning the potatoes and cutting them up.

T. Hamilton: The kettle cookers you can obtain the odor information?

P. Sherry: Yes. That's done in all fast foods and a lot of fast foods are not required. They're testing but the testing doesn't apply because they manufacture forty or fifty different types of snacks that utilize water and that gets discharged. We do not. They do not separate theirs out.

G. Lake: I think the one stumbling block is that you have to get in touch with Mr. Smith again.

P. Sherry: Okay.

G. Lake: I'm going to recommend to the Board that we table you tonight providing you waive the sixty two day time frame.

S. Gaba: We will waive the sixty two day time frame.

G. Lake: Straighten out with Mr. Smith and we're going to need a letter from him.

P. Sherry: Okay.

G. Lake: I think you know everybody on the Board thinks it's a good use for the property and when you get resolved with Mr. Smith we will get you back on.

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

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

3. PUBLIC HEARING 7:40 P.M. - **STAPLES** - TWO FAMILY - SITE

PLAN/SPECIAL USE PERMIT - 8 Clark Street (52-4-6) #99-05

G. Lake: Public Hearing started at 7:00 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 in said Town on the 4th day of October, 2006 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Kathryn & Thomas Staples, 8 Clark Street, Middletown, New York 10940 for approval of a two-family residence under Section 249-22 (9) 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: Do you have your mailings?

T. Staples: Yes.

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

T. Staples: My name is Thomas Staples and with me is my wife Kathryn.

G. Lake: Bring the Board back up to speed on what you want to do.

K. Staples: We want to get approval for a two-family house. We purchased it as a mother/daughter and in the Town of Wallkill it's not legal and we acquired a variance for a deck and we're not allowed to do that until we receive approval for the two-family.

G. Lake: Then, you did purchase the house this way?

K. Staples: Yes.

G. Lake: I think you told us that before at the last meeting. Let me go through the Board and then I will go through the Public.

A. Dulgarian: After the Public.

H. Ross: I will wait.

R. Carr: I will wait.

W. Capozella: I will wait.

C. Najac: I will wait.

T. Hamilton: I will wait.

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

MOTION to close this PUBLIC HEARING at 8:05 P.M. made by T. Hamilton and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

G. Lake: Mr. McGoey?

D. McGoey: The biggest issue is did you receive your variances?

K. Staples: Yes I did for the deck.

D. McGoey: The variance for lot size?

K. Staples: Yes. We received that from the Zoning Board of Appeals.

D. McGoey: So, the Site Plan has to show that. I had ask for in my previous comments the water and sewer laterals. Actually that is not necessary because the house is already existing

and the water and sewer laterals are there.

K. Staples: Do you have a copy of those variances in your file?

G. Lake: Yes, but Mr. McGoey needs you to reference all the variances you received.

D. McGoey: The only other issue is you're showing two parking spaces in the front yard. I notice in the back you use that back parking lot. Do you have rights to that back parking lot?

K. Staples: Everyone uses it.

T. Staples: It's our understanding that eventually it was going to be a Town road.

D. McGoey: It does look like everybody uses it. I was just wondering if the parking spaces could be put in the back.

K. Staples: We use it now. The driveway is one hundred feet long.

D. McGoey: That's all I have.

G. Lake: I will go through the Board.

A. Dulgarian: Mr. Bacon, did you look at this agreement?

J. Bacon: I think before you sign the map, I think the appropriate note should be on the plans. We want to have it revert back.

A. Dulgarian: Correct.

J. Bacon: Back to a single family use.

A. Dulgarian: I think we made a situation that was for everyone. The property owner can use it as a two-family since that's the way it was purchased and when they sell it has revert back to a single family because this lot is small.

H. Ross: I'm okay.

R. Carr: I have nothing else.

W. Capozella: I have nothing.

C. Najac: I have nothing further.

T. Hamilton: Nothing further.

G. Lake: I think Mr. Dulgarian stated it right on the nose. I have no problem with it.

MOTION for NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for SITE PLAN/SPECIAL USE (Two-Family) subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

4. **ST. JOHN'S LUTHERAN CHURCH** - SITE PLAN/SPECIAL USE PERMIT (Re-approval) - 391 Mt. Hope Road (69-1-2.223) #20-04

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

J. Chumard: My name is Jeff Chumard. I'm with Clark Patterson Associates and representing St. John's Lutheran Church. Mr. Goldstein is a church member and we're here to ask for a re-approval of the church expansion project that involves approximately eight thousand square feet expansion of the church which has been expanding. It does not involve any new uses or change in use but what it does is increasing the capacity of the sanctuary from approximately one hundred fifty now to something below two hundred. It would involve a bigger banquet hall which they already have to accommodate about two hundred fifty people and increase in some of the office space that they have. The expansion requires some Site Plan modifications.

G. Lake: Mr. McGoey?

D. McGoey: We had requested than an engineering report be provided for sizing of the pump station and force main. I don't have a letter in my file.

J. Chumard: We did submit it before. I don't know if you received it or not.

D. McGoey: The next item has to do with the datum. Do you have any problems with that?

J. Chumard: The only thing I would ask is the datum that we used was based on our first change to the church back in 1994. We used that datum. We did indicate a relationship of 3.2 feet. I would just ask the Board's consideration of that relationship. For a change of 3.2 feet it would be very time consuming. We would ask the Board to consider our datum.

D. McGoey: I would like to say we've never had that request before so everybody was on the same datum. We've used the same datum for the last fifteen (15) years.

G. Lake: Everybody does our datum

J. Chumard: The Board requests it also?

G. Lake: Yes. I just think that's a bad avenue for this Board to go because if we let one we're going to have difficulties.

J. Chumard: No problem.

G. Lake: I would have to say we really have to follow through with our datum.

D. McGoey: The other issue I have is the proposed twenty foot sewer easement across the lands of others and whether verification is in place. Otherwise this must be a requirement or a condition of final approval. The applicant should identify the intended uses of the building and if new uses are proposed. Will there be anything other than church related uses in the building or day care?

J. Goldstein: We've never had a day care.

D. McGoey: The stormwater management and the landscape plan, if the Board is satisfied.

J. Chumard: Mr. McGoey had a question about one of the trees which our landscape architect recommended and frankly I didn't know what it was either. It's a shade tree where the branches kind of go up instead of going out and they have to be trimmed. Our landscape architect recommended it because it would grow up instead of outwards. It has small leaves.

J. Bacon: What about the status of the sewer easement?

J. Goldstein: The status of the sewer easement is that we have a water easement already from the AHRC property. The sewer easement, we needed to go through the State property which is Family Services. We actually have an agreement from the client then they figured out that they couldn't sign it. Then, it went to the Office of General Services. They found out that there's another State organization in so we are not pursuing that with the State. It used to be called Urban Development but I believe it's now called Empire State Development.

D. McGoey: The City of Middletown?

J. Goldstein: We have approval from the City of Middletown for water and sewer. The water line is already in to our property. The sewer line is not. We're waiting on these other agencies. It kind of cropped up.

D. McGoey: We're going to require both the water and sewer agreements.

J. Goldstein: I believe I can get you a letter from the City of Middletown granting us sewer and water. We have a water easement.

G. Lake: What happens if the sewer easement doesn't go through? Do you have room to build a septic there?

J. Chumard: We really prefer to use the existing septic or enlarge it. The existing septic system probably would be fine. Currently we had no opposition from the State. The problem is that the property is in use by Family Services which is owned by Empire.

J. Goldstein: There was money loaned by the New York State Urban Development which is now the Empire State Development Corporation. So, there is a not a title to the Office of General Services. I had an agreement in my hands but then they figured out they couldn't sign it. We're not looking for a problem. We don't expect a problem.

G. Lake: The concern that we have to deal with if you build this addition because of State agencies we don't know what's going to happen. Will you be able to add on to your septic system until that is resolved?

J. Chumard: We have to get the sewer line in.

G. Lake: Let me go through the Board.

A. Dulgarian: I have nothing additional.

G. Lake: This was approved once before.

H. Ross: I have nothing.

R. Carr: The only thing I have is there is new asphalt out there that water goes through at a good rate. It might even alleviate some of the runoff. That's just a general comment.

T. Hamilton: That's not used in the northeast.

R. Carr: They're starting to use it. It costs the same amount.

W. Capozella: Nothing further.

C. Najac: Nothing.

T. Hamilton: Do we need a Public Hearing?

J. Bacon: On the Public Hearing for an amendment to the Site Plan it does not require a Public Hearing but it's the discretion of the Board whether they want one or not. I would say the issue about the sewer is very substantial and I would like to see the Board hold off Final Approval.

G. Lake: Can't we do it subject to? It's been through the process.

J. Chumard: We've been in contact with the Office of General Services and (not clear). We been working on it for quite some time. We really do expect to hear from them eventually.

G. Lake: I really don't have a problem with it being subject to. Given the time frame, if they don't get it done they'll have to come back. I don't think they're going to build until they have this in place.

J. Goldstein: One way or the other we need a septic system.

G. Lake: I don't have a problem with it.

J. Bacon: If they have to come and go with a septic system, it will have to dealt with before final approval.

G. Lake: Right.

J. Bacon: What you have to remember though that when Preliminary Approval is going to start to expire you get a letter into us asking for an extension.

J. Chumard: Yes, we will.

G. Lake: Did we do a Negative Declaration before?

D. McGoey: Yes.

G. Lake: Do we need to do another Negative Declaration since this is a re-approval?

J. Bacon: I would say, yes.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and this Board's comments made by T. Hamilton and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for SITE PLAN/SPECIAL USE PERMIT (Re-approval) subject to all of Mr. McGoey's comments and this Board's 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

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

5. **CICCARELLI** - TWO FAMILY - SITE PLAN/SPECIAL USE PERMIT (Re-approval) - 108 Shaw Road (24-1-55.52) #60-02

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

A. Elia: My name is Angela Elia, daughter of Mr. & Mrs. Ciccarelli.

G. Lake: This is a re-approval and are you tied up in other agencies?

A. Elia: No. Actually we had difficulty with financing. (Not clear).

G. Lake: Mr. McGoey?

D. McGoey: The comments of the previous approval haven't been satisfied.

A. Elia: I received your latest comments yesterday.

D. McGoey: The soils have to be checked. I don't have a problem with the approval.

T. Hamilton: Does this fall under the new zoning?

D. McGoey: It would.

A. Elia: Not clear.

D. McGoey: The lot sizes would become a factor. I don't know what the soils are.

G. Lake: This falls under the ten acres also, correct?

D. McGoey: The soils will determine the lot size for a two-family. The problem is that the zoning was changed and the lot sizes were increased. I don't have a problem if you want to give conditional and if she can't get satisfied I will have the Building Department send her to the Zoning Board of Appeals.

G. Lake: Did you guys here that?

D. McGoey: I need to have them verify what the soils are and then I can check the lot size to see if they're in conformance. If it's not conforming then I would ask the Building

Department to send them to the Zoning Board of Appeals. You had your Public Hearing on December 18, 2002. Does she need another Public Hearing?

J. Bacon: Yes.

G. Lake: Let me go through the Board. We will schedule the Public Hearing. Between now and the Public Hearing you're going to have to verify the lot size and the soils.

A. Dulgarian: I would say they need another Public Hearing.

H. Ross: I agree.

R. Carr: What expired?

A. Elia: We couldn't get a Building Permit because it expired.

J. Bacon: Either way, you will need another Public Hearing.

W. Capozella: I agree.

C. Najac: I agree.

T. Hamilton: Nothing further.

J. Bacon: Mr. Lake the way that reads is if no construction has started it expires after a year.

G. Lake: Unfortunately, we're going to schedule you for another Public Hearing. Do you understand what the Attorney just said?

A. Elia: I understand. I have to verify the lot sizes according to the soils.

G. Lake: Right.

A. Elia: Is that something I can do or can check on line?

D. McGoey: The map is here at the Town Hall. It will have to be represented on the plan. Your engineer can do that.

A. Elia: Is there a book?

D. McGoey: The soils formula is in the ordinance.

MOTION to schedule a PUBLIC HEARING for December 6, 2006 made by T. Hamilton and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

7. **DUFFY** - 2 FAMILY - SITE PLAN/SPECIAL USE PERMIT - 330 Seaman Road (5-1-55.1) #49-06

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

T. Duffy: My name is Thomas Duffy. I brought the revised plans answering the questions that Mr. McGoey had. Can I give you these?

G. Lake: Hold up a minute. We have to schedule you for a Public Hearing. Mr. McGoey, anything significant?

D. McGoey: Again, the soils type have to be identified for the lot size and to verify that there are no more than three bedrooms in both the primary dwelling units and the apartment. In addition, details of the septic system modifications must be provided on the plans.

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

A. Dulgarian: What I'm going to be interested in is are there any existing two-families in that area?

T. Duffy: Yes.

G. Lake: Anything else, Mr. Dulgarian?

A. Dulgarian: No.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

C. Najac: Nothing.

T. Hamilton: Nothing.

G. Lake: I have nothing. For the record, note that Mr. Duffy is my neighbor and I will step down and abstain.

MOTION to schedule a PUBLIC HEARING for January 3, 2007 made by H. Ross and seconded by T. Hamilton.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

T. Duffy: Would it be possible to waive the Public Hearing? It's completely isolated and is four hundred feet off the road.

G. Lake: Unfortunately this Board with our rules and regulations we just don't have that power to waive Public Hearings on a two-family. The lady that was before you, the same thing. She lost her approval that's why she has to come back but any two-family homes has to go through a Public Hearing. We've not allowed to waive that. Sorry, but that's the law.

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

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

J. Tirolli: My name is John Tirolli representing the applicant.

G. Lake: You've been before us a couple of times on this project. Give us a brief description again.

J. Tirolli: It's a conservation subdivision consisting of eight lots. Prior to the moratorium we had eight lots. After the moratorium we re-submitted a conservation subdivision with the hatched area in the rear being the area protected.

G. Lake: Mr. Dulgarian?

A. Dulgarian: The project hasn't changed much. I still feel it's very ambitious. I think there's a lot of safety concerns. What's the actual speed through there, Mr. McGoey?

D. McGoey: Probably forty to forty five.

J. Tirolli: It's stated in the traffic report before the moratorium was enacted.

A. Dulgarian: I guess what I'm driving at as many times as we've seen this plan and we've sent him back and was hoping to seeing something a little bit more creative. I question that

it is the best possible use of that property. The impacts on the wetlands, the speed through that area. I was hoping to see something a little bit more creative.

J. Tirolli: What we anticipated during and after the moratorium is that your concerns prior to the moratorium have been addressed. Before the moratorium I think the lot size was twelve thousand square feet. For whatever reason that didn't seem to change at all, if any.

G. Lake: Let me go through the Board so we get everyone and then we can discuss it.

H. Ross: I can't comprehend how this is actually a conservation plan. I understand it meets the formula. I don't agree with the way the formula is utilized and see what's being conserved. You're putting all these houses backyards on the other side of the creek which you're trying to protect. It doesn't solve the problem. I think to call it a conservation subdivision when you have a total of eight driveway cuts described as four driveway cuts doesn't conserve a darn thing. I'm not crazy about it at all.

R. Carr: I feel it's very ambitious. The only thing is they're following the area where you're not allowed to go and calling that your conservation. I also have a concern with the driveways. I was trying to remember why this could not be connected to the subdivision that's just above it.

D. McGoey: The Scotch Valley Subdivision.

R. Carr: Is there some way they can come on the road that's already there (not clear). I would like to see some kind of a buffer preserved along the road. I don't recall what the issue was. I think this may be a problem.

J. Tirolli: I will reserve my comments.

W. Capozella: I have a concern with the driveways on Silver Lake Scotchtown Road which is heavily traveled now.

C. Najac: I don't see this as a conservation subdivision.

T. Hamilton: The way I read the conservation subdivision is that the property would be conserved along the roadway not all the way in the back of the property which has a lot of wetlands. It doesn't meet the conservation subdivision requirements.

G. Lake: The only thing I will say at this point in that conservation subdivision. I think if I

remember correctly in the new law there's supposed to be a certain amount of use of the land in the back and not all wetlands. So, you wouldn't be able to use any of the land in the back.

J. Tirolli: It's flood plain and Federal Wetlands.

G. Lake: Go ahead.

J. Tirolli: I will go in reverse order. First, the setbacks are in the R1 code. Second, concerning the request to look at Scotch Valley. We had looked at that quite a while ago before the moratorium. Two things happened. One, you can envision the road coming in somewhere on lot #3 and going almost to where the blue hatch is which is close to the wetlands. I now have houses with a road in the front and the rear of the lot. As I approached Scotch Valley you get into the road network. There are a significant amount of wetlands. The issue of the eight driveways. We tried a couple of times to pair them two at a time. Your code doesn't allow us to bring them in. We did compromise with Mr. Lippert to have four (4) common aprons off of the Town road. The minute they leave the Town road and go a couple of feet and then put them together. I think that answers some of your questions.

G. Lake: I don't see and I have to agree, I don't see it as a conservation subdivision. I'm willing to send it to the Planner who wrote the law for us and see what he says but I'm not even sure the Board is happy as a whole with even at Sketch at this point. You're going to have houses right on the road. I don't think this is a Sketch Plan that I would want to see move forward. I will have to ask the rest of the Board. Mr. Bacon, he's asking for a Public Hearing on this Site Plan and I don't think the Board really likes what they see.

J. Bacon: It sounds as though the Board is not satisfied with the plan due to safety concerns and the lack of the required buffer along the road for a conservation subdivision.

G. Lake: At this point, as far as I'm concerned it's nothing more than a subdivision. I guess what I'm asking you is they came in for sketch, you heard the Board. Go back and work on it.

J. Tirolli: We asked for this before the moratorium. Mr. Wolinsky was there representing us. Then we took the time out and came back. We would be glad to have Mr. Wolinsky come back. The short of it is we want a decision from the Board, be it on sketch or Preliminary. We hired a traffic consultant to address those concerns and we've done it and if you feel it's unacceptable we would appreciate your making that determination so we can get on with our lives.

T. Hamilton: You mentioned that the R-1 wasn't mention in the conservation section.

J. Tirolli: The way I read the RA in the conservation law says that you must provide a two hundred foot buffer or have at least fifty feet of natural buffer. When it comes down to the R1 section in the conservation it doesn't mention at all any buffer.

T. Hamilton: Read sections from the conservation law. It lists what you have to do.

J. Tirolli: I don't have a problem giving this Site Plan to your Planner and see how he feels the way it's set up.

T. Hamilton: The buffer (not clear).

J. Tirolli: I understand that but it was clearly stated in the RA.

G. Lake: Mr. Hamilton, he wants a yes or no on whether we accept the sketch plan?

MOTION for acceptance of Sketch Plan as submitted

A. Dulgarian: No.

H. Ross: No.

R. Carr: No.

W. Capozella: No.

C. Najac: No.

T. Hamilton: No.

G. Lake: No.

SKETCH PLAN not acceptable. 7 NAYS

J. Tirolli: Can I ask you if you're saying the Sketch Plan is denied?

G. Lake: I'm just telling you if they like or not. I just polled the Board and they don't like it. We can deny anything but not for sketch plan. We've been telling you that right along.

J. Tirolli: I did that before the moratorium.

G. Lake: You also did it after the moratorium when you came back. In not way this represents what the conservation subdivision represents. This Board from day one has been honest about that. What I'm telling you is what you asked me to tell you, the Board doesn't like the Sketch Plan. It's up to you what you do with it.

J. Tirolli: My client has asked me to get a decision. You haven't given me a yes, you've given me an opinion so we will have the Attorney come back at the next available meeting and do what he has to do to get you to say it's approved or dis-approved. That's all.

G. Lake: I'm not an Attorney. Let's get it straight now. I'm not going to be a wise guy here. You asked for the Board's decision on the Sketch Plan and that's what I just gave you. If you want to go ahead with it, go ahead. I gave you a decision on the Sketch Plan and our Attorney can step in if I'm wrong.

J. Tirolli: The only way I can come back, if I come back with the same plan you're not going to entertain it, correct? I wouldn't think so.

G. Lake: You might get the same answer. You asked the question and that's what we gave you.

J. Bacon: If you look up the subdivision regulations, the Board voted on Sketch Plan.

J. Tirolli: They voted on it.

8. **SILVER** - 2 LOT SUBDIVISION - Midland Lake Road (24-1-42.21) #32-06

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

J. Mirro: My name is Jay Mirro. I'm the Attorney for the applicant. This is an application for a two lot subdivision. This lot was originally created in 1977, filed map 4100. We show two lots, propose three lots along Midland Lake Road and no new road is anticipated. We have Mr. McGoey's comments.

G. Lake: Mr. McGoey?

D. McGoey: Yes. The lot size does not meet the zoning formula so you will have to modify your lot arrangements. We're suggesting that the stone walls be preserved and the septic system on lot #2 will cut through that stone wall, so we're recommending that it be moved.

J. Mirro: We can do that.

D. McGoey: There are significant trees on that site and I think the building layouts and the driveways (not clear) to preserve the trees.

J. Mirro: We will look at that.

D. McGoey: The driveway which crosses lot #1 that serves the adjoining dwelling unit, is that driveway going to be eliminated or is there going to be an easement?

J. Mirro: There is a driveway easement for the benefit of the adjoining lot.

D. McGoey: Obviously, culvert pipes issues need to be resolved.

J. Mirro: Unable to hear.

D. McGoey: Can you tell us when the parent parcel was created so we can determine whether it's a major or a minor?

J. Mirro: 1977, about twenty nine years ago.

D. McGoey: That's not an issue. The amount of build-able area on lot #2 is extremely limited by the wetland buffer.

J. Mirro: We acknowledge that however, . . .

D. McGoey: We recommended that the dwelling unit on lot #1 be pushed back from the front setback line.

J. Mirro: We will take a look at it.

G. Lake: Mr. Dulgarian?

A. Dulgarian: We're going to set a Public Hearing at this point?

J. Bacon: Yes.

A. Dulgarian: I really don't have anything. I have one question for Mr. Bacon though. When we give the limits for clearing of the lot, that's a construction item. What prohibits the

property owner at a later date of clearing that property? Can we follow through and put it on the deed or is that strictly up to them?

J. Bacon: The best way to go about it is to put it in the deed and it should be on the filed map. You can also require a restricted covenant so that any future owner or anybody will be put on notice.

A. Dulgarian: Have we done that in the past?

G. Lake: I don't think so.

A. Dulgarian: We only require it for construction purposes?

H. Ross: I have nothing.

R. Carr: I think the wetlands have an issue and also having the houses so close to the road. It's a beautiful country road and I think it's terrible to have all those houses so close to the road.

J. Mirro: We're limiting the extent that we can on the removal of the trees.

R. Carr: Can't you move the houses back?

J. Mirro: Are you objecting that we don't meet the criteria of the code? I'm not clear.

W. Capozella: I have nothing.

C. Najac: I have nothing.

T. Hamilton: Do we have to schedule a Public Hearing on this?

J. Mirro: Does the Board normally schedule a Public Hearing for a two lot subdivision?

G. Lake: Mr. McGoey?

D. McGoey: The parent parcel was created in 1977. It's a minor subdivision consisting of only two lots.

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

A. Dulgarian: What are we looking to do here?

D. McGoey: We have eleven (11) comments to be resolved.

J. Mirro: We will work with Mr. McGoey preserving as much as we can. We want to do that. We have no problem with the concept here at all.

G. Lake: Then why don't we table you and let you resolve all questions and then we will get you back on. You have items that need to be straightened out and the tree line with what you can save. Also, moving the homes as far back off the road as possible and we will get you back in on December 6, 2006.

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

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

9. **GODHWANI** - 2 LOT SUBDIVISION - Silver Lake Scotchtown Road (82-1-2.1)
#53-06

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

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

G. Lake: Go ahead.

J. Nosek: This is here for a proposed two lot subdivision on Silver Lake Scotchtown Road. The lot sizes don't conform to the R2 zoning district and I'm asking for a referral to the Zoning Board of Appeals. I don't have a problem conforming to AASHTO certification. Item #3. The Planning Board should be aware that several substantial trees will be removed along the property line if the driveway is constructed as shown to the flag lot. Item #4. We need to verify whether the sewer line and sewer line easement crosses through the applicant's property beyond the point shown on the plans. If so, the sewer line should be shown as well as the easement.

G. Lake: I will go through the Board.

A. Dulgarian: If we send him to the Zoning Board of Appeals I would recommend it in a form of a denial.

H. Ross: Yes, I agree.

R. Carr: I would say the same thing. I'm not in favor of it.

C. Najac: I say send him to the Zoning Board of Appeals.

T. Hamilton: Send him to the Zoning Board of Appeals.

G. Lake: Mr. Bacon, we can just send him?

J. Bacon: Yes.

G. Lake: Just one comment Just so you to understand just because the Zoning Board of Appeals may give you this variance, it doesn't necessarily mean this Board is going to act just because you have that.

J. Nosek: Okay.

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

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

10. **SCOTCH VALLEY** - SUBDIVISION (Silver Ridge) - FINAL - Silver Lake
Scotchtown Road (99-1-1) #06-03

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

L. Potter: My name is Lorriane Potter with Lanc & Tully.

G. Lake: Go ahead.

L. Potter: We've reduced the number of lots (not clear). I will go through our approval process. We have been before the Army Corps, the Department of Environmental

Conservation, the Orange County Health Department. We have received the water approval from the Orange County Health Department, that was in 2005. There have been several issues that have been resolved and we have gotten the modified plan in February. We have reduced the number of lots forty two lots to forty one lots. Also, the configuration of the lots have changed in order to accommodate a through road for the (not clear) parcel. Since then the Army Corps have also requested that we provide a larger area (not clear). We have eliminated those lots which we have done. The Army Corps has given us approval to filling wetlands and we will mitigate that. Also, the Department of Environmental Conservation has issued a permit for the water crossing however they would not unless it was reviewed by the agency in White Plains until the Army Corps signs off on the wetland mitigation. As it stands now we are waiting for the Department of Environmental Conservation final review and the Orange County Health Department for the septic review approval. The Orange County Health Department will not sign off until the Department of Environmental Conservation signs off on the sewer. I was talking with the Department of Environmental Conservation last week and they have not yet started the review of the (not clear). They are backed up. They have no idea when they will start that review. Therefore, we're going to request once again an extension.

G. Lake: So, basically you're tied down with outside agencies?

L. Potter: We are.

G. Lake: And getting through it . . .

L. Potter: It's taking a lot of time.

G. Lake: Mr. McGoey's comments.

L. Potter: We got Preliminary Approval in 2004 and the first extension in November 2004. The second extension in May 2005 and another extension in November. A modified plan in February and now.

D. McGoey: I spoke to you about the modified plan Preliminary approval also.

L. Potter: We were going to substitute the plan.

D. McGoey: Because you've reduced the lots.

G. Lake: Mr. Bacon, I think we need to know are we restricted as to how many times we can

do it. In the past when they've been tied up in outside agencies you can't hold them responsible so we've been giving them however, I don't remember this many.

J. Bacon: The approach is that the Preliminary has expired and the code states that you may grant a reasonable extension allowed for hardship.

G. Lake: I guess my question is they are tied up in outside agencies including the Orange County Health Department which everybody on this Board knows that's a nine month process just by itself.

J. Bacon: The Board has to balance whether (not clear).

G. Lake: Is it a Board decision?

J. Bacon: Yes, it's a Board decision.

H. Ross: Mr. Bacon, if we don't extend?

J. Bacon: Well then the approval expires and they would need to come back and file a new application.

A. Dulgarian: I have a question pertaining to that extension. You said that the Army Corps is allowing you to mitigate wetlands and I see it on page sixteen (16) you're showing a spot and it refers back to fourteen (14) to see how you're doing it and I don't see anything on page fourteen (14). Am I missing something here Mr. McGoey?

D. McGoey: I'm sorry.

A. Dulgarian: On the wetland mitigation, if they're disturbing more than a , what is it a tenth of an acre?

D. McGoey: Yes.

A. Dulgarian: Then they can create some new wetlands elsewhere on the site?

D. McGoey: Correct.

A. Dulgarian: I just want to make sure that it's shown on here. I couldn't find it. I just want

to make sure it's in here or did I miss it.

L. Potter: Look at page seventeen (17) which is specifically the mitigation itself.

A. Dulgarian: Oh, because they're referring back to page fourteen (14). You're telling me it's on another page.

G. Lake: Anything else, Mr. Dulgarian?

A. Dulgarian: No. As far as the extension is concerned I think they were trying to do their best and unfortunately are tied up in other agencies.

H. Ross: I'm not sure.

R. Carr: I have nothing.

W. Capozella: I understand them being tied up in other agencies still.

C. Najac: I question the number of extensions.

G. Lake: First off, for the new Board members. They had it signed, sealed and delivered plan subdivision filed in Goshen. Because of the wetlands we got into a work session and basically (not clear). At one time we tried to follow up and now there are a couple less lots. That's really what we're trying to look at here. If you get involved with other agencies then, I think this has taken a little longer is the mitigation across the bridge.

C. Najac: The other applicant who didn't have the money and they have to start all over.

G. Lake: But they had gotten their letter in. Unfortunately I wish we could change the clock back but our hands are tied there. Here, they submitted their request on time and have been standing on top of it. That's the difference.

T. Hamilton: They did send in their letter?

G. Lake: Yes. Mr. McGoey, you had something?

D. McGoey: Well, the big question I have is has to do with the reduction of the number of lots. You approved a Modified Preliminary Approval back in November 2005 and in February 2006. Now, they've dropped another lot. So, the question is whether you have to send them back to the Health Department.

L. Potter: The lots were re-numbered. Two lots were eliminated.

G. Lake: Any other questions?

MOTION for a MODIFICATION to PRELIMINARY APPROVAL for lot reduction from forty one (41) lots down to thirty nine (39) lots made by A. Dulgarian and seconded by T. Hamilton.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

MOTION for SIX (6) MONTH EXTENSION of PRELIMINARY APPROVAL made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES, 1 NAY

11. **FOXWOOD ENTERPRISES II** - Mt. Hope Road (62-1-6) #57-06

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

J. Atzl: My name is John Atzl with Atzl, Scatassa & Zigler Engineers & Surveyors.

G. Lake: Go ahead.

J. Atzl: Basically it's a re-subdivision of a subdivision that was approved last year for Foxwood Enterprises. It would be a subdivision of lot #1 to be subdivided into nine (9) lots. Mr. McGoey has some comments. What I would like to do tonight is to get comments from the Board and in addition to Mr. McGoey's comments maybe go on another work session and try to get on the next agenda.

G. Lake: Mr. McGoey?

D. McGoey: Yes I think they need another work session. I would like to get a report in from the Conservation Committee because of wetlands on this site.

G. Lake: Mr. LaBruna, when do you meet again?

S. LaBruna: We have two meetings coming up. We can meet with them the second Monday in December.

G. Lake: We have found out that with the amount of wetlands involved . . .

S. LaBruna: Just one thing on emergency planning. What has changed?

J. Atzl: This is a whole new plan. The lots are generally the same.

A. Dulgarian: I have nothing.

H. Ross: I'm a little curious about lots #7, #8 and #9. Is there any reason for the septic systems being where they are?

J. Atzl: Yes. Actually the septic systems are in the flood zone on those lots because of the soils in the rear even though there are flat areas down in that area.

H. Ross: Will you be pumping up?

J. Atzl: Yes.

R. Carr: I have an issue with the septic systems on those lots and having to pump.

W. Capozella: My questions have been raised already.

J. Atzl: Lot #1 is mostly wetlands.

C. Najac: I have nothing.

T. Hamilton: Nothing.

G. Lake: I think the question I asked the last time with the amount of wetlands . . . You've heard the comments from the Board. I highly recommend that you call and get Mr. LaBruna's number and send it up again so we can get his report back, get back with Mr. McGoey and try to clean up some of these comments and then we will go from there.

D. McGoey: Do you want this to go to Behan?

G. Lake: Does the Board want this to go to the Planner?

J. Atzl: Are you talking about this layout or the other one?

G. Lake: Let's get that sent up.

J. Atzl: Would it be possible to schedule us for another agenda?

G. Lake: Let's find out when the next available work session is and then you still need to get in touch with the Conservation Committee.

MOTION to TABLE for further review made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

12. **MILLER** - 4 LOT SUBDIVISION - Old Timers Road (62-1-76) #74-06

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

D. Yanosh: My name is Dan Yanosh representing the applicant.

G. Lake: Go ahead.

D. Yanosh: Again, one of Mr. McGoey's comments. We've been here a couple of times already and the last time was in 2004. That was a five lot subdivision and because of the moratorium back then now it's down to four lots. We're back again to try and complete this process. We have approval from the County Department of Public Works for the driveway. That was issued back in March 2006. The septic systems will be reviewed by Eustance & Horowitz.

T. Hamilton: Did he lose his approval Mr. McGoey?

D. McGoey: They received Preliminary Approval on September 3, 2004. However, they

were subject to the moratorium and the approval lapsed.

G. Lake: I will go through the Board.

A. Dulgarian: Nothing.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

C. Najac: Nothing.

T. Hamilton: Nothing.

MOTION to schedule a PUBLIC HEARING for January 3, 2007 made by W. Capozella and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

13. **MILLER** - 9 LOT SUBDIVISION (Weatherly Estates) - California Drive (32-1-29.2) #83-02

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

D. Yanosh: My name is Dan Yanosh, representing the applicant.

G. Lake: Go ahead.

D. Yanosh: Initially this was before you a couple of years ago again, before the moratorium with two acre lots will a small cul-de-sac. Mr. Miller is starting out again in an attempt to talk to owners along Pennsylvania Avenue and California Drive to make the lots a little bit bigger. All of Mr. McGoey's comments will be addressed and the stormwater management and the Highway comments. The biggest question I would have right now is the sidewalks.

G. Lake: Did you prepare a conservation subdivision out there?

D. Yanosh: We were going to look at that. The septic systems are in the places where the soils is the best to put them. It does not have the greatest of soils and that's why the septic systems are laid out where they are. If we find better soils out there I would do it but these are the best sites with the soils. That was one of Mr. McGoey's comments from the beginning. Showed the members what is planned for the other side, thirty lots. First of all, this was two acre zoning back then. I'm going to look at that side to try and make that a conservation subdivision. The biggest thing with this is looking at the soils. I think the soils are about the same over there also. I've done some work with the property next door. The conservation subdivision is good because it would give us more lots but you need better soils for the septic systems.

R. Carr: Can you use California Avenue as opposed to Pennsylvania Avenue?

D. Yanosh: Right now, just the one lot off the end. The new subdivision of the next phase will be the remaining seventy three acres will use Pennsylvania Avenue make a left and go out through the back of the rest of the property. The biggest thing is the soils.

R. Carr: Did you ever look at going out to Howells Road?

D. Yanosh: We did that initially and Mr. Lippert wasn't too keen about that. In my mind I think that the Planning Board and Town Board were looking at small communities and to make that road go across people may think it is a short cut to go from one spot to the other. People would be using Howells more road and putting more traffic on that road.

R. Carr: Right now the only way (not clear).

D. Yanosh: Correct. Again, we only have seven (7) lots on this side.

R. Carr: I don't know. How many houses are there now?

D. Yanosh: On the overall map?

R. Carr: Yes. From a safety issue I have a concern with only one way in. The cul-de-sac laws were changed also.

G. Lake: Mr. Yanosh, the existing house going off of Howells Road, is that part of that whole back lot?

D. Yanosh: Which one is that?

G. Lake: Showed Mr. Yanosh.

D. Yanosh: It's just a lot right there.

G. Lake: Did you subdivide this earlier?

D. Yanosh: That was already subdivided.

G. Lake: It's like this was all one big piece at one time.

D. Yanosh: You're right. That was subdivided out.

G. Lake: This, to me, looks like all one piece right now.

D. Yanosh: Correct.

G. Lake: I think what he's saying rather than coming out of California Avenue you have the opportunity to maybe at least having something go out this way.

D. Yanosh: The other ones I do I end up building roads. I don't know who likes building roads and who likes maintaining road. Again, it a small area with seven (7) houses.

R. Carr: Not seven, that's all the houses on that road.

D. Yanosh: On my cul-de-sac, seven (7) houses.

R. Carr: And, I'm asking how many houses are on California Drive and Pennsylvania Avenue right now?

D. Yanosh: Maybe twenty. There's only one side of Pennsylvania Avenue.

R. Carr: And what about California Drive?

D. Yanosh: Seven.

R. Carr: And, how many could be on the other end of Pennsylvania Avenue?

D. Yanosh: With a conservation subdivision?

R. Carr: Let's say an average of twenty (20)?

D. Yanosh: Okay.

R. Carr: So, now you're up to fifty six (56) houses.

A. Dulgarian: Can't we send this to the Planner for his review?

D. Yanosh: This is not like we're miles away from an intersection. Another half a mile and you can get to Ingrassia Road you can make a loop with no problem at all. If you want to send it, it's no problem.

G. Lake: To be honest with you I think the Board is looking at an open piece of land right now but I think we may have an opportunity to benefit not only you but the people who are going to live there eventually. You're only here for sketch any way. I don't think you received a negative reaction but I think we have the ability to go out to outside help sometimes. I think it would benefit everybody.

A. Dulgarian: I agree with sending it up.

H. Ross: I agree.

R. Carr: Yes.

W. Capozella: Yes.

C. Najac: Yes.

T. Hamilton: Yes.

G. Lake: Yes. So, this is going to be tabled for further review and we will send this up to Mike for his review.

D. Yanosh: Is it possible then to get placed instead of January, February, to be placed on earlier than that?

G. Lake: We will send the plans up and ask him.

D. Yanosh: A month or so would be no problem. How does the Board feel about curbs and sidewalks or are you going to leave them to the planner?

MOTION to send the application to the Planner and 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

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES

14. **MKA/PIRRO** (Woodside Knolls) - SITE PLAN/SPECIAL USE PERMIT - Cottage Street (36-2-28.2) #90-05

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

M. Miller: My name is Mark Miller and representing the applicant. I believe you received our letter from our firm yesterday or the day before regarding several issues that we want to discuss with you. During the process from the subdivision approval and Site Plan approval a couple of issues came up pursuing to the stipulation that no recreation fees are due on this project. We have had discussions on this issue with your counsel Mr. Bacon and he suggested that it was possible to resolve the issue with three townhouse lots in exchange to paying any more recreation fees. Based on the approval with the recreation fees on the site of five hundred dollars per lot. We understand from Mr. Bacon that he had discussed this with the Town Board.

G. Lake: First off, your letter came in late yesterday.

M. Miller: We apologize for that.

G. Lake: I really didn't get a chance to look at it and study it a little bit. To be honest, it would take me a couple of times. Before the recreation fees, I kind of understand what was said that you feel you didn't have to contribute to the recreation fees. I never got that understanding to be honest with you. I realize you did get a certain amount of rights for the development. Again, I'm not a lawyer but looking further I really never even really heard that a comment like that was an indication. As far as the three extra units, again I'm going to be honest, I don't believe we've gotten anything in writing at this point from the Town Board expressing that it was (not clear). Mr. Bacon you can correct me if I'm wrong if you've gotten something but in conversations with you I guess not.

J. Bacon: Not at this time.

G. Lake: That kind of puts this Board in a tough spot to stand here and say. I can just tell you I haven't seen anything to get that fact one way or the other. I'm not saying your wrong but without any paper work from the other side it's hard to back that up. I don't know what my colleagues want to do with that issue. I don't know how we can legally handle that at this time.

J. Bacon: Yes.

G. Lake: And, correct me if I'm wrong.

J. Bacon: That's right. The interior road Mr. McGoey and I had a work session and while a stipulation was drawn I did bring up the fact that this might be resolved subject to the Planning Board and the Town Board looking into it.

G. Lake: You know, I don't know what the Board has suggested with the extra three units as part of this project but without any paperwork to act on it.

J. Bacon: I suppose the Planning Board should decide that whether to accept an amended Preliminary Approval of the additional three units (not clear).

G. Lake: And, if we don't get it?

J. Bacon: Then, they don't get it.

G. Lake: It's still not fair to us. I think we should have something here.

J. Bacon: That should be done (not clear).

D. McGoey: That should be done by a modification to the approval.

M. Miller: Yes, that's right. (Could not hear) Seeks both Boards on the stipulation. I don't The Town Board negotiated the number of units.

T. Hamilton: We didn't hear anything until we received your letter. We didn't even know that the stipulation changed.

M. Miller: We understand. Obviously there is some disagreement as to the interpretation and I think the discussion with Mr. McGoey doesn't actually dissolve that disagreement.

G. Lake: Understand, I'm not trying to knit pick on something but the job of this Board is to make sure that we don't step and do something. That's why I'm just wondering why.

M. Miller: I don't know again whether it was subject to the Town Board giving you some paper work. On that issue perhaps, it was also discussed about the additional units. I think to

a certain extent that information whether or not this Board are comfortable may be something that the Town Board and we would like to know whether we would obviously enter into a resolution to the issue.

T. Hamilton: Can't you get a modification of that stipulation?

M. Miller: That's the proposal, yes.

T. Hamilton: Any changes in the modification should be resolved before we even vote on it. That should be agreed upon before we even act on it. We have no indication on what anybody is doing on this. How can we even entertain it?

J. Bacon: You're right, Mr. Hamilton. The Town Board hasn't acted on it yet.

M. Miller: I don't know what the protocol would be in respect to the Town Board sending anything to the Planning Board.

G. Lake: I have to apologize. Mr. Bacon, help us?

J. Bacon: One of the issues that you have to deal with is the applicant should get any comments.

Unidentified Person: The recreation portion, put a map up. As you can see this is a sketch of the area for any recreational facilities. What we are proposing is a pool. There are actually two pools, one would be for toddlers and would be separate from the larger pool which would be sixteen by thirty feet. The pool house provides restroom facilities. It will have a community center meeting room for the development. Also, in that area would be a playground area which would be for children. And then, the easement we're proposing a tennis court that could also be used as a multi-purpose court such as tennis and basketball. There is also a walking path that extends from the community center to the single family homes through the wetland area. These facilities are available to the entire development.

G. Lake: The tennis court would be both for tennis and basketball?

Unidentified Person: That would be the plan to get the most out of it.

G. Lake: You can have both?

Unidentified Person: Right now it's a tennis court that could be used for either/or.

G. Lake: It's been my experience in the past that a tennis court and a basketball court are really two different animals.

Unidentified Person: We have found that with this type of a facility, the pool facility would probably be more utilized. The court will have an asphalt surface with stripes, etc.

D. McGoey: You can't put a net in the middle of a basketball court.

J. Bacon: According to the code, it would be the amount of residents that were expected to actually use the facilities.

R. Carr: Let me just ask a couple of questions. This is approved right where it is?

D. McGoey: No, this is new.

R. Carr: But, this is part of the recreation fees?

D. McGoey: They are offering into a stipulation to reduce by fifty percent and is this enough recreation to allow that.

R. Carr: Then, the three additional units (not clear).

A. Dulgarian: How did we get a ruling on that?

J. Bacon: We got a ruling on that, they're saying that they don't think they need the additional recreational fees however, they agree to give recreation in they get three additional units. The recreational facilities are part of a different entity. The amount of fees that they would give would depend upon whether or not this Board (not clear). If this Board does not think that the recreational facilities then it will be a thousand dollars per unit. The question now is whether or not you believe that the recreational facilities are acceptable. In looking at that, I did call the County to see if they had any standards and they don't have a set number. Apparently there are some studies out there that talk about that. I don't know if the developer has that to share with us but I talked to Mr. McGoey also to see if there was a recreational committee. I don't know, out of one hundred and twenty eight people how many are kids, are many are going to be wanting to play basketball or tennis. What kind of facilities are in the immediate neighborhood where people could get on their bikes and ride to?

T. Hamilton: There's nothing.

J. Bacon: There's nothing out there then this facility should be made to have enough facilities. Your code says that for eight hundred twenty eight residents which would be 8.2 acres of land. The Board has to look at this issue and it might take a little bit of time to decide exactly how much facilities will be needed. Again, the developer might have some inside information that shows on other developments that might help the Board.

T. Hamilton: What other facilities are there?

R. Carr: The walking path is there.

D. McGoey: It was on the original Site Plan and then it was taken out when they came back for Preliminary Approval

C. Najac: We had a pool similar to this and similar in size and we had found that it was inadequate for the project.

D. McGoey: My personal opinion is they need more recreation than what is shown.

J. Bacon: The single family houses are actually separated from the wetlands. Are there other neighborhoods like this in the Town?

G. Lake: It's just on one end of the whole complex with nothing on the other side.

A. Dulgarian: I still think we need a ruling that if they have to pay for recreation or they don't. I mean that's where we start and then if you're asking a question about the amount of recreation that's showing, I agree with Mr. McGoey. You don't have to be a recreational engineer to realize that it's very minute for the amount of people. It has to be self-sufficient because it's isolated.

J. Bacon: Mr. Dulgarian, the Board makes that decision about the recreation. In my opinion we did not give up that right.

A. Dulgarian: Then there needs to be a lot more than what we're looking at and maybe in two different locations on the site so the kids don't have to go through the amount of blacktop roads and yards.

H. Ross: I agree with Mr. Dulgarian. It should be self-sufficient. I also feel the pool size is insufficient for the amount of people.

R. Carr: I agree but I just want to understand. Are you saying Mr. Bacon, that we can still require more recreational facilities? My initial impression was that we were going to get none.

J. Bacon: The recreational facilities are the concept and five hundred dollars per unit. I'm sure the applicant has information about recreational on other projects.

W. Capozella: I agree with my partners.

C. Najac: On the recreation I would say it's a start but not sufficient.

T. Hamilton: Nothing further.

M. Miller: I think Mr. Bacon raises a very good question (not clear). This Board has to establish the recreation. We need information from you so we can see what you have to say. We can debate all night on whether or not the stipulation (not clear).

G. Lake: We just got it today and when I opened it up and something like that I have to read a couple of times. What I think would help eliminating a lot of things is to set up a work session and discuss. In the meantime our Attorney and the Town Board Attorney try to get them also at the work session and a representative from the Town Board. As a couple of Board members have said it's hearsay so far because of no paperwork. We need to know where the Town Board is at I think before we go through our part. I think that's only fair to everybody.

M. Miller: I agree.

G. Lake: I think, Mr. Bacon can work on a couple of these things and Mr. McGoey. Mr. Bacon can also get together with the Town Board Attorney. Try to get a work session date with everybody there or as many people as possible. Then we will get you back on at a formal meeting to take care of whatever has to be done.

M. Miller: There is one additional issue and that would be phasing. At one point in the process phasing was established. We would like to eliminate the phasing and we wanted to talk to you about that.

G. Lake: I think that's something you can do at the work session. We have done phasing in the past.

M. Miller: We don't disagree and obviously.

D. McGoey: You can't overlook my comment #3. The Planning Board should advise as to the dates on which Preliminary Subdivision, Preliminary Site Plan and Special Use Permit approval have been received and whether extensions should be considered.

J. Bacon: They should get a letter in.

M. Miller: We can get it in tomorrow.

G. Lake: To be on the safe side and then we can go from there.

M. Miller: Mr. Chairman, would it be possible on my promise to bring the letter in to extend it tonight subject to my submitting that letter?

G. Lake: I don't know.

M. Miller: We have been extending.

G. Lake: I think we're looking at what we're supposed to do here on this one and not putting you on the spot.

J. Bacon: Well, (not clear).

G. Lake: The problem is you should have had that letter in a month ago.

J. Bacon: What was the date of the Preliminary Approval?

D. McGoey: March 27th.

R. Carr: They have to come back anyway.

MOTION made to TABLE for further review made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 7 AYES