

TOWN OF WALLKILL PLANNING BOARD

MEETING

OCTOBER 15, 2008

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

1. PUBLIC HEARING 7:30 P.M. - **SPENSIERI** - SITE PLAN/SPECIAL USE PERMIT (Beauty Salon/Repair Shop Uses) 0 508 Bloomingburg Road (4-4-4) #31-08

G. Lake: This applicant was postponed by the applicant's engineer. We're going to postpone that and re-schedule it for December 3, 2008.

Public Hearing re-scheduled for December 3, 2008 made by H. Ross and seconded by R. Carr.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

2. PUBLIC HEARING 7:35 P.M. - STATE FARM - SITE PLAN REVISION - 643 Route 211 East (41-1-112.1) #30-08

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 15th 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 David IM, 643 Route 211 East, Middletown, New York 10940 for approval of an addition located at 643 Route 211 East, Middletown, New York/Imperial Park Drive, under Section 249-26 (1) 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.

A. Nussbaumer: My name is Alan Nussbaumer, architect. We would like to extend the existing occupancy of office/retail to the rear of the building. It's approximately twenty one feet to the rear and twenty eight feet out to the side. It will not extend further in either direction than the existing building. It will be the same use and occupancy.

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

H. Ross: After.

R. Carr: I will wait.

W. Capozella: I will wait.

C. Najac: After.

T. Hamilton: 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 T. Hamilton and

seconded by R. Carr.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

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

D. McGoey: There are three comments. The locating of the valving for the relocated water line. As far as I am concerned everything is fine.

G. Lake: No problems then, Mr. McGoey?

D. McGoey: No.

G. Lake: Let me go through the Board.

H. Ross: I just have a concern about additional landscaping.

R. Carr: I have no issues.

W. Capozella: This is an extension to an existing business?

A. Nussbaumer: Yes it is.

C. Najac: Nothing additional.

T. Hamilton: Nothing. I know he was before us quite a while ago.

G. Lake: I agree. It's a nice looking building. I don't think it's going to affect anything whatsoever.

C. Najac: I would like to see sidewalks. That is one of the spots that we need sidewalks. I can't ask him now to do it for that small addition but when we get the neighbors to go along with it.

T. Hamilton: Mr. Bacon, when the State comes through (not clear).

J. Bacon: The State has a ruling on that?

T. Hamilton: I believe they do.

G. Lake: They take the land and that's the end of it. There are no questions about it. What we've been doing is we've been asking people when and if a sidewalk district is formed if you would join it at that time. We're just looking for a yes or no at this time.

A. Nussbaumer: I would say yes.

D. McGoey: That would be a note on the plan?

G. Lake: I guess that's the only way we can do it.

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

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

3. **RSR** - SITE PLAN/SPECIAL USE PERMIT (Cooling/Duct System) - EXTENSION to FINAL - 65 Ballard Road (41-1-70.21) #50-07

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

L. Wolinsky: My name is Larry Wolinsky from the law firm of Jacobowitz & Gubits on behalf of the applicant. This project received a Special Use Permit and Site Plan approval which we got October 31, 2007. We then received an extension of the Site Plan approval in May 2007. The anniversary year date is coming up at the end of this month so we require one additional extension as we are still not quite finished with the environmental permitting process. As I said in my transmittal letter there's a forty five day notice period that's actually an EPA notice period that we're in at the moment. The Department of Environmental Conservation draft permit is done and the Public Notice for the Department of Environmental Conservation is finished. This one, which I originally thought was supposed to expire around the middle of this month actually expires on November 3rd. We need one additional extension and that's pretty much it.

G. Lake: So, basically right now you're still with the Department of Environmental Conservation working out their process.

L. Wolinsky: Yes.

G. Lake: Let me go through the Board.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: The reason for this extension is for you to work some of this environmental stuff out?

L. Wolinsky: The environmental stuff is being done on an independent basis with the Department of Environmental Conservation. It's all in process and scheduled and it's moving forward along that track. This application is independent of that and is requiring an air permit.

C. Najac: He was pretty thorough the last time.

T. Hamilton: Now, Mr. McGoey, in this zone were there any zone changes?

D. McGoey: Nothing.

G. Lake: I don't have anything.

H. Ross: I'm assuming all the concerns will be addressed properly?

L. Wolinsky: Yes.

G. Lake: Motion for, Mr. Bacon, six months or a year?

J. Bacon: Either one.

G. Lake: I don't know about you guys but again, the way the economy is presently I would just as assume them a year and be done with it.

J. Bacon: He's got one more after this for the Special Use Permit and Site Plan approval with reasonable extensions based on need.

G. Lake: Again, I don't know how you guys feel?

H. Ross: I support a year.

MOTION for a ONE YEAR EXTENSION for SITE PLAN/SPECIAL USE PERMIT made by C. Najac and seconded by R. Carr.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

4. **BERMAN** - 14 LOT SUBDIVISION - EXTENSION to PRELIMINARY - 525
Route 17K (5-1-3.2) #66-04

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, we've been to the Health Department. We're still working with the Town Board on the Drainage and Lighting District. We're also work on the conservation for the Conservation Subdivision.

G. Lake: The biggest one is you're still with the Health Department?

D. Yanosh: Yes.

G. Lake: Let me go through the Board.

H. Ross: Not clear.

R. Carr: Nothing.

W. Capozella: Nothing.

C. Najac: Nothing.

MOTION for a ONE YEAR EXTENSION to PRELIMINARY APPROVAL subject to all comments made by H. Ross and seconded by R. Carr.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

5. **JACOBS/LEVINE** - 2 LOT SUBDIVISION - Sproat & Cottage Street (36-2-30)
#50-08

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

J. Dillin: My name is Jim Dillin representing the applicant.

G. Lake: Go ahead.

J. Dillin: What we have is a piece of property that has an existing dwelling on it which is located on Sproat Street and extends over to Cottage Street. The property is surrounded totally by the City of Middletown property. It's in the Town of Wallkill and is served by the city services for both water and sewer. Our proposal is to subdivide and flag off the back of it which fronts on Cottage Street and propose a single family house. I've talked to the City of Middletown for the necessary hookups for water and sewer and he had no problem with it and we're doing correspondence now for the final agreement between the City. Lot #1 is totally conforming and lot #2 was short a couple thousand square feet and we received a variance. We believe we've asked for an extension and it's being processed right now.

G. Lake: You've already been to the Zoning Board of Appeals?

J. Dillin: Yes, I've already been to the Zoning Board of Appeals.

G. Lake: Who sent you?

J. Dillin: It was handled by Jacobowitz & Gubits. I'm not sure. I think maybe they went to the Building Inspector because it was just for an area variance.

D. McGoey: The Building Department can send people to the Zoning Board of Appeals.

J. Dillin: It was just for an area variance that we needed.

D. McGoey: Did they?

G. Lake: What's that Mr. McGoey?

D. McGoey: The question is did they send them?

G. Lake: I don't know. I'm just surprised being it is a subdivision that they got there without coming here first. We will talk about that in a minute. Do you have Mr. McGoey's comments?

J. Dillin: Yes I do.

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

J. Dillin: Item #1. The applicant proposes a two lot subdivision for a lot which contains frontage on both Sproat Street and Cottage Street. It contains one existing dwelling unit. Item #2. Lot #2 does not contain the required minimum lot size of 18,750 square feet. The applicant should verify whether a variance has been received or otherwise be referred to the Zoning Board of Appeals from the Planning Board. Item #3. The applicant's engineer should verify any other variances that may be necessary prior to proceeding to the Zoning Board. Items #2 and #3 I think are handled. I think we got our answer, right?

D. McGoey: Right. Item #4. We should discuss with the Planning Board Attorney, the need for a sewer and water agreement, in light of the fact that sewer and water will be received from the City of Middletown. Are you in a water and sewer district, the Town Water and Sewer District?

J. Dillin: Honestly, I don't know. I don't think you have any services there.

G. Lake: He's really close to the Wildflower complex. He's getting it from the City of Middletown so we will need an agreement, that's what you said, right?

J. Dillin: I'm getting an agreement from the City for service. They said as long as they're servicing that lot right now they would extend it to one more lot.

G. Lake: You haven't gotten . . .

J. Dillin: I haven't gotten the paperwork yet but I will get it.

T. Hamilton: Yes, but I think what we're getting at is when we get a district in the Town, the SPEDES has to be in place.

D. McGoey: Yes, and we would also need a municipal agreement.

J. Bacon: I'm just trying to find an answer to that.

J. Dillin: You have to say this is a little strange.

G. Lake: I don't know how this one lot got left out Okay. Mr. Bacon, you're going to have to work with him to straighten out the water and sewer.

J. Dillin: The stormwater runoff, I know we show some seepage pits and I think we can handle it. It's the best we can do.

D. McGoey: Right.

J. Dillin: And, I will show some grading and I had a little question on the pipe but I think (not clear).

D. McGoey: The Highway Superintendent raised that comment also. You need to get together with him.

J. Bacon: How many bedrooms are you going to have?

J. Dillin: We would choose between three or four bedrooms.

J. Bacon: Three or four.

D. McGoey: The Highway Superintendent did have some other comments. That's all I have.

J. Bacon: Do we have copies of the variance you received?

J. Dillin: I don't have them but obviously the Zoning Board has them in a resolution.

T. Hamilton: They aren't even marked on the plans

J. Bacon: What variances did you receive?

J. Dillin: Just area.

G. Lake: So, we don't need to send him to the Zoning Board of Appeals because he's already been there. You have a couple of loose ends to tie up with the City of Middletown.

T. Hamilton: We have to make sure about his setbacks and everything else. We don't know about the road frontage or anything else.

G. Lake: Did you have to get any other variances besides the area?

J. Dillin: No other variances.

D. McGoey: He meets everything else.

J. Dillin: The bulk table is on the plan and everything complies.

D. McGoey: We need to see on the plan the variance received.

G. Lake: Let me go through the Board.

H. Ross: As long as the paperwork is okay with Middletown, I'm okay. In general my fine with it.

A. Dulgarian: Arrived at this time.

R. Carr: I have no problem with this. It's in character with that area. It's just the paperwork needs to be worked out and is satisfactory regarding the City. It meets all of the zoning requirements and maybe the map has to be redone to properly reflect that. On a whole, I have no problem with it.

W. Capozella: I don't have any issues.

C. Najac: I don't have any issues but I think we need all the paperwork involved with the City.

T. Hamilton: Mr. McGoey, you spoke about some notes we needed?

D. McGoey: We need the inner-municipal agreement for the water and sewer and on the notes the date and the type of variance received and the notes for the Highway Department.

G. Lake: I kind of agree. It's a simple two lot subdivision and is surrounded by Middletown on three sides. Let me ask you, this little sliver of land between your property and Middletown, who owns that and what's going to happen to it?

J. Dillin: That's owned by the adjoining neighbors.

G. Lake: So, the property line comes up to yours and the line I'm looking at is just strictly a boundary line?

J. Dillin: Right. The houses on those lots are in the City. I didn't want us to leave a sliver.

G. Lake: Okay. Mr. McGoey and Mr. Bacon, if you guys are okay with this, Mr. Dulgarian did you want to say anything on this?

A. Dulgarian: No.

G. Lake: I think if you guys can work out the notes and the variance and there are no other that he needs I don't see a reason to bring him back providing you are okay to make sure the proper notes are on.

J. Bacon: It can be conditioned upon the approval.

MOTION for a NEGATIVE DECLARATION subject to all the proper notes and the agreements from the City of Middletown for the water and sewer and anything else that came up this evening 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

MOTION for a TWO LOT SUBDIVISION subject to all the proper notes and the agreements from the City of Middletown for the water and sewer and anything else that came up this evening made by A. Dulgarian and seconded by W. Capozella.

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

6. **SOHAN LAL** - SITE PLAN REVISION (Citgo) - Carpenter Avenue (74-9-1.1)
#48-08

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

J. O'Rourke: My name is John O'Rourke with Lanc & Tully and Mr. Griely We're looked for an amended Site Plan to provide a one-way access off of East Main Street to the existing approved gas station located on the corner of East Main Street and Carpenter Avenue. We limited the access to fifteen feet wide for one-way traffic only to enable it to basically only allow a right hand turn in from East Main Street into the site. The existing sidewalk is there. What we provided is a crosswalk across Carpenter Avenue and across our entrance as well

as installing a handicap ramp to access at that location. We've modified the existing swale to pick up the majority of the drainage from the access road the last short piece of it which is tied into a trench drain and tied into the County system. We discussed this with the County .

G. Lake: Do you have a favorable response from the County to do this?

P. Griely: Yes. My name is Phil Griely with John Collins Engineers. Before we got into preparing the plans we sent a concept to the County last Spring and they gave us a conceptual approval to go ahead and if the Town approved then it would proceed to a permanent application. We have submitted it to the County and we were hoping to have their final tonight but basically we had a conceptual sidewalk and we're working with them on it.

G. Lake: The only other thing, the last time, I think the last time you were here one of the members brought up a little issue within the parking lot but I've seen you've moved that curb a little bit?

J. O'Rourke: Yes. I apologize. I should have mentioned it. Yes, we brought that curb approximately back about five feet. We can't go any further because, again, there's an existing monitoring well there.

G. Lake: Right.

J. O'Rourke: We have talked about that.

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

J. O'Rourke: Yes I do.

G. Lake: Why don't you go through them and then I will go through the Board.

J. O'Rourke: Item #1. The Planning Board Attorney to review the cross easements for acceptability in light of the fact that this driveway is being constructed on the Lands of Others. Item #2. The Planning Board to review the modification in curbing to allow for cars backing out of the first parking space in front of the building. This was pointed out as being a problem by Mr. Najac during our work session. We just discussed about cutting the curb back. Item #3. Approval from Orange County Department of Public Works must be received and any details required by them to be provided on the plans prior to final signature by the Chairman. We have no problem making that condition.

G. Lake: Let me go through the Board.

A. Dulgarian: A couple of questions. This was not part of the initial Site Plan, why was that?

P. Griely: It wasn't. We weren't part of the original application but in looking at the traffic patterns it was difficult to get traffic to move in that way. I don't know the whole history of the original application.

A. Dulgarian: That's what I'm trying to recall. I have to tell you. I really like the look of that being landscaped. I do understand the need for the turning lane. I think it will help the situation. You have a little sign there. Is that sign existing? Proposed fueling station pylon sign.

P. Griely: It's a proposed sign right along East Main Street.

A. Dulgarian: Don't you already have a sign out on the corner or, no. The sign is up by the parking lot. Are you proposing re-doing the other signs?

P. Griely: I don't know.

A. Dulgarian: You're going to have two signs that tell you there's a gas station. Mr. Lake, I really have nothing. Again, I know we tried to gain on all the properties that come in as far as what they look like in the Town and where we had that corridor it was really a little different with everything right out by the road. I do understand the want of a right hand turning lane in only. I don't know about the sign there. I know it's probably a real minor thing but again I like that clean look on that corner. I really have no problems with it.

G. Lake: I hear you and I think what this does for that corner is that it maintains the rest of that corner green. They're going to have an easement across that property and then you don't have to worry about that property owner coming in now trying to squeeze something in there.

A. Dulgarian: I remember that conversation earlier.

H. Ross: I agree with Mr. Dulgarian about the sign.

R. Carr: Yes. I believe that at the very first time we saw this there was actually a driveway coming in directly opposite of Ridgewood, I think and we said no because of that corner being tight and there is a lot of traffic. You also have a gas station across the street. At that

time, that was going to be a two-way. This, I guess because it's one way the only question that I have are people who pass Carpenter, can they make that left? That's the only thing because the geometry of that right hand turn it just looks like.

J. O'Rourke: Yes. That's why we limited it to fifteen feet wide and we have curbing and we've angled it. The problem with Chili's is it opens into a parking lot so you couldn't really make that swing.

R. Carr: It is narrow. That would be my only concern. I do like that it's open and nice. The only other thing that I noticed out there and again, I think it's something that we imposed. The two driveways on Carpenter, I think are so wide. I think this is a nice looking gas station right there.

A. Dulgarian: Speaking of, you said (not clear) could make the swing. My other question I forgot was, what about accessing from this new driveway and swinging to the diesel pump.

J. O'Rourke: We actually have shown a vehicle at the diesel pump there.

A. Dulgarian: I see it. You show like a straight job but the turn radius to the diesel pump.

P. Griely: He's not going to be able to make that in one maneuver but we tried to make those radius very tight to back up.

A. Dulgarian: Into the driveway?

P. Griely: No. In terms of you saying coming in the right turn and then getting to the diesel.

A. Dulgarian: Right to the diesel pump.

P. Griely: He's not going to do it in one shot. The reason why we kept that fairly tight is there was concern about, we have this driveway and would somebody be encouraged to try to go out the wrong way. That was the reason why we made them very tight. That truck as it comes in one way and we can use the whole fifteen feet but he'll probably have to make the turn and move forward. A small truck will be able to do it. The concern was if we made it any wider that it might encourage people to use it even though the sign may say one way only and do not enter and that it may encourage them to go out that way.

A. Dulgarian: When I saw your drawing here, I was wondering how tight that was.

J. O'Rourke: The key for that was also that the truck could be fueling and not block anyone.

P. Griely: He wouldn't be in that exact position. He would be right up against the curb. We show it at there for the purpose of showing that it wouldn't block the driveway and any other vehicles could get passed.

A. Dulgarian: If he's coming in making that right and making a sharp right over to that pump

P. Griely: Yes.

A. Dulgarian: Are you suggesting that he needs to back up and get tighter.

P. Griely: To get into position where we're showing it, he would have to do that. If he made it in one maneuver he would be further away from the curb line. We can look at that radius a little bit more.

A. Dulgarian: Would it be difficult to move that pump a little bit?

P. Griely: The only other thing we could do is where the driveway comes in to open it up slightly and not move the pump. That would be a major undertaking. We do have enough width there for him to use the entire length.

J. O'Rourke: This is shown as a thirty foot vehicle.

A. Dulgarian: We might get a guy with a camper trailer, etc.

J. O'Rourke: He would either block the lane or move around.

A. Dulgarian: You said block the lane.

J. O'Rourke: We don't want them to do that and that's why it's designed the way it is.

G. Lake: Anything else, Mr. Carr?

R. Carr: No.

W. Capozella: Do you have an easement for this now?

J. O'Rourke: Yes.

W. Capozella: My only other comment then is I agree with Mr. Dulgarian about going around there. I understand trying to not have anybody make that left turn but I would be in favor of (not clear).

C. Najac: Unable to hear conversation.

P. Griely: Maybe a couple of feet we can.

C. Najac: The only other thing I don't like is the sign lighting (not clear).

P. Griely: There are two items that are being looked at. One was if the illumination could actually be trimmed down but also and I think this is the option that will dim the signage with some type of an add-on and it cuts down. That was an issue that was brought up at the work session. We were hoping to have had an answer back tonight.

D. McGoey: I don't know what the reduction is but supposedly that was a possibility.

C. Najac: Maybe he can reduce the lighting under the canopy and around the building and only allow this. This is a problem and it's the first one. I don't know what has to be done.

T. Hamilton: I think the tinting on the windows for the store with an overlay like you said.

P. Griely: The manufacturer has a certain guide and I don't know what it's called but it's similar to that.

T. Hamilton: I know it's always brought up. This is for Mr. Dulgarian. I went and pulled up at the gas pump with my truck and it actually extended six feet out further. I stayed during the day and watched the people back in and out and you still had almost fifteen feet to my bumper and I was way past.

A. Dulgarian: You're talking about the pump in the right corner?

T. Hamilton: Any of the ones where the people parked in front of the store. Every one of them had no problem backing out. There was plenty of room.

P. Griely: You can see the curb has been cleaned up.

A. Dulgarian: Yes.

P. Griely: By cutting that back, it should help.

A. Dulgarian: What brought me back into this I didn't realize that the new entrance sign is going to be similar to the sign that exists on Carpenter. Is that correct? That's a distraction. I don't know why you need two on the same property.

T. Hamilton: In that easement does that give them the right to put that sign there?

D. McGoey: Yes.

T. Hamilton: Okay.

G. Lake: The other thing is that the Water & Sewer Superintendent on the proposed drainage ditch, the trench drain. You're not showing where the water and sewer meets so you will have to look at that I think this is a good move for that corner.

MOTION for a SITE PLAN REVISION subject to all of Mr. McGoey's comments, this Board's comments, Water and Sewer Department 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

7. **BAKER/REZAC** - 2 LOT SUBDIVISION & SITE PLAN/SPECIAL USE PERMIT
794 Route 17M (22-3-27.21) #47-07

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

D. Yanosh: My name is Dan Yanosh representing the applicant. He's going to be doing the septic design. The landscaping we will take care of. The lighting and stormwater management he's in contract now. What we would like to do is finish the subdivision first. The two lot subdivision and Site Plan simultaneously. We would like to get the subdivision approved by this Board and make it a separate lot Mr. Rezac would then own it and the application would be in his name. He will get his financing and work it all through that way. He wants to get started right away with that but with financing and stuff he would like to get the subdivision done first.

T. Hamilton: What is the use for?

G. Lake: I was coming to that. Since Mr. Hamilton just brought that up, first off is it one zone?

D. Yanosh: Yes it is. We took care of that question. It is all in the Empire Light zone.

Unidentified Individual: No it's not.

G. Lake: Because looking on the maps, we're going to need verification of that. We looked at our maps here that we have hanging and it doesn't appear to.

D. Yanosh: I know I talked with Behan Associates and had verbal conversations with them, whether they got back to you or not with the situation . . .

G. Lake: Hold up. Did we get anything from Behan on that at all?

M. Hunt: No.

G. Lake: Unfortunately we didn't, Mr. Yanosh so I think that's something you're going to have to verify. Mr. Bacon, I think we're going to have to verify that also.

J. Bacon: Yes. I think the intent was to include this into the new zone but it doesn't show up on the map that way.

G. Lake: Our problem is I think we have to go by the map that's before us. I don't know how we can just say that's okay. The next thing I have to ask is you said most of the trailers were cleaned up and the ones that are remaining and, I know this was an issue the last time you

were here. How many trailers are you parking? There are a several amount of them back there yet? I mean, it's not like there are only two or three.

Mr. Rezac: Are you talking about trailers that don't have equipment attached to them or are you talking about everything that's sitting on the property?

G. Lake: What's back there, is not two or three trailers?

Mr. Rezac: There are . . .

G. Lake: Unfortunately, we're kind of looking at this Site Plan.

Mr. Rezac: I want to answer your question. I'm trying to get a basic count in my head so that I can answer the question correctly. There are seven trailers that are sitting there that are registered, excuse me, eight. There are two combination units, that would be a trailer and a tractor that's hooked up to it. There is six straight jobs and a number of vehicles that move in and out on a daily basis. There are also the two (not containers) that sit on the property. All of this stuff except for the containers, everything is registered.

G. Lake: Now, have you ever been visited by the Town Building Inspector?

Mr. Rezac: Yes sir. Mr. Russell has been on the property several times.

G. Lake: I'm just trying to get a better understanding of what's going on.

Mr. Rezac: And, I'm trying to do that.

G. Lake: Have you been served by the Building Department?

Mr. Rezac: By this Building Department, yes. Served a summons by the Building Department, a notice given to deal with the following: which was dealt with and the site was re-visited by Mr. Russell.

G. Lake: Are you in compliance at this time?

Mr. Rezac: Yes, as far as I know I'm in compliance. Mr. Russell was on the property in August and as far as I know I have not been notified about not being in compliance.

G. Lake: Do you have a Certificate of Occupancy or anything for that property? I'm just

trying to figure out how you got here with this kind of so many different things that we have to think about here before we move on.

Mr. Rezac: What are the things that we are trying to think about so I understand where you are coming from?

G. Lake: First off, what made the Building Department show up out there?

Mr. Rezac: That's a fair question. I don't know how they wound up coming out other than the fact that we were before the Board to take care of what we were going to take care of. As far as I know, no complaint was filed by any neighbors to cause this action to happen. They don't divulge these things to me so, you would have a better understanding by talking to them directly to find out why.

T. Hamilton: I've been to different Town Board meetings and so forth and hearing the neighbors and the public coming before us and complaining about what was happening there and I think that's what probably made us look to see exactly what you were doing to handle their complaints. You know, if we can't see it from the road and it's not as easy to drive by where we can pick up different things that we don't like that shouldn't be there. That's why maybe the Building Department went there because there were comments at the Town Board meeting that were presented.

Mr. Rezac: I don't know either.

D. Yanosh: The summons was issued December 12, 2007 which was clearly after the time we were here in front of the Board. Again, the notice was served, the site has been cleaned up. You can go up there yourself and you will see the only trailers that are there now. He has complied with everything.

T. Hamilton: And I remember when you were before us before we had questioned if there were Certificate of Occupancies and approvals for everything that you were doing on that site. I think that's why we haven't seen you in a while because we hadn't heard back if you had all these documents for whatever you were doing there was permitted by us and approved by the Town.

D. Yanosh: Again, I think that was the issue before. I think we had discussed he started his operation as a small operation years ago. He's come before you before the violation to put up a new building to clear up his act, clean the site up which he did. He wants to put up a new building for his operation. That's why we're here. Now, he wants to operate. He wants

to put up a building and enclose everything inside the building. Transfer his tires from one rig to another and ship them out. He wants a clean business and that's what we're here for right now. There are no permits. The guy on the corner opening a hot dog stand and was wondering what we were building.

T. Hamilton: Do we documentation telling us exactly what you do there, what you do with the tires and so forth?

D. Yanosh: Oh, I think we discussed that before in the meeting here. We did discuss his business. He goes from garage to garage picks up the tires, brings them back to his facility and sorts them out for recycling.

T. Hamilton: Do we have a paper trail to say?

D. Yanosh: In the minutes it should show what the applicant had said.

G. Lake: Okay. So, you bring the tires back, I'm sorry.

D. Yanosh: He brings the tires back and figures out which ones are going to be recycled, which ones are going to be shredded, which ones are going to be re-capped. He sorts them out in different trailers themselves and once those trailers are full they go out to the different agencies where he takes them.

G. Lake: But, he doesn't shred them there, nothing at all?

D. Yanosh: Nothing at all.

Mr. Rezac: No processing.

G. Lake: And eventually, we're looking at a building with everything inside?

D. Yanosh: Everything will be included inside.

Mr. Rezac: Including the housing of the trucks and trailers, nothing on the property.

A. Dulgarian: The last time you guys were here you were looking at processing tires in that building.

Mr. Rezac: Not at all. If you check the minutes you will see that we never discussed or did we have any intent to process.

D. Yanosh: He takes them, and sorts them that's all.

T. Hamilton: On your Site Plan here under your Special Use Permit it looks like what you were asking for. It says manufacturing and production, is that what you're looking to do there or is that just quoting a name of one of the items that you can do in that Enterprise zone?

D. Yanosh: We discussed it at a work session, what is it based on and how do we base this type of business. I think at that meeting we said that manufacturing and production was the way to do it in that zone. We are processing tires. We take them in, sort them and ship them. That's all we're doing. We're not doing anything with them.

T. Hamilton: You're not processing anything?

D. Yanosh: Processing kind of . . .that you're going to do something . . .

D. Yanosh: We're not.

T. Hamilton: Just looking at that, I don't know what you're doing.

D. Yanosh: What else do you want me to say? He has a Department of Environmental Conservation Permit for what he does right now. They cover what he's into for recycling. Again, there is no pollution coming off of this except for the vehicles coming in and out. A well and a septic system will be there. The building will be enclosed. You won't see any tires out there, no garbage.

Mr. Rezac: Nothing outside except unfortunately the garbage can sit out there so it can be removed.

T. Hamilton: But, you said you are only here for the subdivision?

D. Yanosh: Right now. We want to get the subdivision.

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

D. Yanosh: Yes I do.

G. Lake: Go through them and then I will go through the Board.

D. Yanosh: Again, these are all Site Plan concerns. We discussed the trucks. The Department of Environmental Conservation Permit, he does have his permit for what he is up to.

G. Lake: He has his Department of Environmental Conservation right now?

Mr. Rezac: On me, no.

G. Lake: Do you have a permit for the business?

Mr. Rezac: Okay. The permit that I have allows me to collect the tires.

G. Lake: Okay.

D. McGoey: A copy of that permit should be submitted for the file.

G. Lake: Go ahead.

D. Yanosh: Again, we know that once we come back for Site Plan for the building, I do show one on the plan right now. This is what we're looking at doing right now. We have to do the stormwater management plan. We still have to do the landscaping, take care of Mr. Carr and the rest of the properties around us. We have no problem with doing that but we have to proceed somehow. How is he going to proceed if he's going to do all of these things . .

G. Lake: Let's continue with the comments.

D. Yanosh: We will take care of the stormwater management and all the construction details for the parking spaces and the rest of it after we get the subdivision approval to go along with the Site Plan.

G. Lake: Let me go through the Board to see what ever comments they have. I think the big thing right now we have to straighten out this zone and I believe the new code says we have to have a Public Hearing for this zone now. Is that correct?

J. Bacon: For Site Plan, yes.

A. Dulgarian: I can respect what Mr. Yanosh wants to do for his client but I'm not prepared to allow the subdivision to happen tonight. I don't want that to be misconstrued as me being supportive of the project or the applicant coming back and saying, well I bought this property what do I do now. I think, for me, I would like to see it proceed with the Site Plan and the

Subdivision as one and for that reason I'm not going to be supportive of the subdivision now

H. Ross: I'm not prepared. I would like to see the language regarding the operation modified on the Site Plan so that it would be separation for further processing off site so that there was no question that the right to process was in anyway to be construed. Other than that, I'm okay.

R. Carr: I agree with Mr. Dulgarian in this particular case. I can't see doing the subdivision totally without looking at what he's looking to do there. So, I couldn't see going for the subdivision without looking at the Site Plan as such. It just doesn't make sense.

W. Capozella: I'm leaning towards the subdivision. However, I think the applicant is well aware of that he has to follow up. I understand he wants to get started. You're allowed to purchase land and however you have to use it to meet our guidelines and as a Planning Board we will do that.

C. Najac: I think we should look at the whole project as one

T. Hamilton: He mentioned that he has a Department of Environmental Conservation Permit to do his business. I never realized he could get the permit without knowing where he is taking it. Does he have the approvals to do it where you're taking it? He said he has the permit to collect but as part of that approval it should state where that site is. This way we could check if the permits exist.

G. Lake: I would have to assume that's why we asked him if he has a permit.

T. Hamilton: He's in for a Special Use Permit now.

G. Lake: No. He's only in for subdivision.

T. Hamilton: But, that's going to be part of what he's looking to do there. We don't want to give the impression that because he gets the subdivision, he's going to be able to whatever he wants to do. It still has to go through our process. Just looking at the Enterprise Zone, (Unclear).

D. McGoey: There are dimensions but the intent there is a table in there that tells you about adjoining residential table in Section 249-100.

T. Hamilton: I'm looking under the Light Enterprise District for the buffer.

G. Lake: Anything else, Mr. Hamilton?

T. Hamilton: No.

G. Lake: I think our biggest problem right now is you've asked for a subdivision and I fully understand that and I'm torn about saying yes or no one way or the other on that. As I look at it though we have a big question and I think this is where Mr. Hamilton comes in that as far as I can tell from our maps you have two zones. I think if you have those two zones then a piece of that one has to be changed to the Light Enterprise.

D. Yanosh: This is documentation that I gave the Board a while ago from 1996 when the Bakers' requested their whole property with the split to be changed fully to Highway Commercial.

G. Lake: Right.

D. Yanosh: They went to the Town Board and they got a resolution.

G. Lake: When was that?

D. Yanosh: In 1997 to change the whole property from R-2 to Highway Commercial.

G. Lake: Okay. You realize we've been through re-zoning and you realize the Town Board has drawn new lines.

D. Yanosh: No. What they've done is, the person who drew the map. I understand. I did talk to Behan about it. I know they have all this documentation on it. I will call them to make sure.

G. Lake: Because if they decide not to turn around and back that up with a letter, saying that their intent was to leave it as is and who knows what's going to happen. You have a Town Board function then. That's all I'm trying to tell you.

D. Yanosh: I'm saying if the Town Board passed a resolution and somebody didn't change the map, whose fault is that? We have to straighten that out ourselves then, right?

G. Lake: I think that's our responsibility also. We will contact them.

Mr. Rezac: They said it was an oversight and she said it should have been in there based on the information.

G. Lake: Let me tell you. You guys can talk all you want. I'm going to tell you right now, we're not doing anything without me getting a letter from Behan or this Town Board. That's the end of it. That's what it's going to be. I'm not going to take the chance of doing something that's going to be wrong and then just mess everything up for everybody including you.

Mr. Rezac: I understand that.

G. Lake: I don't care if you talk to them until you're blue in the face until they get a letter to me in this office.

Mr. Rezac: The Town Board.

G. Lake: Or the Town Board, I don't care who does but somebody is going to do it. That's where we stand with that. For a two-lot subdivision, do we have to do a Public Hearing on that under the new zoning?

J. Bacon: Well, I think . . .

D. McGoey: We don't know what zone it is in and if it is in the R-2 zone you will have to go by the soils formula. If it's in the Enterprise Zone there are a whole set of regulations. I don't think you can approve the subdivision until we know the zone.

G. Lake: Listen. We're going to work on it. We will put you back on whenever Mr. Bacon has the information for us. Anything else, Mr. Yanosh?

D. Yanosh: I guess. We will wait. I have everything in writing. I have questions and notes on the uses of the property, the permit process and it will all be handled in writing.

MOTION to TABLE for further review 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

8. **SORGE/REPAIR SHOP** - SITE PLAN/SPECIAL USE PERMIT - 378
Bloomingburg Road (3-1-89.11) #10-08

Cancelled.

9. **BOWSER** - 2 LOT SUBDIVISION - 125 Bowser Road (21-1-27.4) #52-08

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

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

G. Lake: Go ahead.

D. Yanosh: This property is located on the north side of Bowser Road adjacent to the four lot subdivision that was recently approved by this Board a couple of months ago. It's a 13.92 property in the RA zone with the existing house on where Mr. Bowser lives now. It is an existing two-story house with an existing well and septic. He proposes a two lot subdivision residential. Lot #1 will consist of his existing house of 3.68 acres. The remaining lot #2 will have 10.23 acres the rest of the property all the way back the land will be sold to his daughter and will construct one single family house with an individual well and septic.

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

D. Yanosh: Sure. Item #2, the driveways?

D. McGoey: I recommended ten percent in consideration of safety for fire department issues.

D. Yanosh: I can probably go ten and a half to eleven. Is eleven percent okay?

D. McGoey: It's better.

D. Yanosh: I will see what I can do at eleven percent. Fire Department comments I have no problem with. He has owned the property since 1969 and we're in the process of doing the pit test.

G. Lake: I will go through the Board.

A. Dulgarian: I have no problem.

H. Ross: No problem.

R. Carr: I have no problem.

W. Capozella: I don't have a problem.

C. Najac: No problem.

T. Hamilton: Nothing. Did you see this?

D. McGoey: I really have to go out and take a look at it. I went to the wrong site.

G. Lake: I don't have a problem with it. It's pretty straight forward.

MOTION to TABLE for further review until November 19, 2008 made by H. Ross 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

10. **SAWRANSKY** - 2 LOT SUBDIVISION & LOT LINE CHANGE - Midland Lakes Road (24-1-4.32 & 42.4) #37-08

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

D. Sawransky: My name is David Sawransky co-applicant with Fred Borgman for a subdivision and a lot line change.

G. Lake: Go ahead.

D. Sawransky: What we're proposing to do here is to take a portion of an existing property we have that is currently about 11.8 acres and take off approximately one hundred eighty to one hundred ninety feet all the way in and angle it in to buy approximately 4.5 acres from Fred Borgman and to take a portion off his property for the lot width requirements. We're in the process of doing the septic design and the approvals with Jim DeWinter and Eustance & Horowitz. It will be a single family home and we're going to be using an existing driveway that comes in so as not to disturb any wetlands.

G. Lake: You were in at a work session, I think things were ironed out there. Do you have Mr. McGoey's comments?

R. Carr: Is this a two lot or a three lot subdivision?

D. Sawransky: This is actually a two lot subdivision. We're taking a portion of lot #1 and giving it to lot #2.

R. Carr: How many lots are out there right now?

D. Sawransky: Right now there are two lots.

R. Carr: Two lots and then there will be three.

D. Yanosh: The reason I numbered them that way is that the Orange County Tax Map Department, we subdivide lots to do lot line changes. They don't want us to say part of tax map 2, 3, or 4. They have to be numbered separately. So that vacant piece of property off of the existing tax lot here of 4.32 so I made it lot #1, the new lot is #2 and the remainder of the Borgman property is lot #3.

D. McGoey: It results in three lots and will require a Public Hearing.

J. Bacon: Dan, how are you (not clear).

D. Yanosh: We have road frontage on Midland Lakes Road all the way through.

A. Dulgarian: Mr. McGoey you're certain a Public Hearing is necessary even though it's two lots with a line change?

D. McGoey: We're going to end up with three lots. Three lots were put into two lots originally so . . .

R. Carr: Wouldn't that be like a two lot subdivision with a lot line change?

D. McGoey: It also depends on when the original subdivision was created.

D. Yanosh: Quite a while.

D. Sawransky: I believe the original lot #1 that we're working with was in 1978.

D. Yanosh: 1977.

D. McGoey: That's more than ten years so, it's not a major.

G. Lake: I will go through the Board.

A. Dulgarian: He is doesn't need a Public Hearing I have no problem. This is all reasonable stuff and no real impact upon the neighbors or anything like that. I have no issues.

H. Ross: I just have a question about the driveway. Mr. Sawransky explained it to Mr. Ross. I have nothing else.

R. Carr: It's just the lot configuration but I really don't have a problem.

W. Capozella: You know my opinion. I hate easement agreements.

C. Najac: Nothing.

T. Hamilton: Nothing.

G. Lake: As long as we're satisfied it was before ten years.

D. McGoey: Right. I just have one thing. At my field review it appears you've already started to cut this driveway in?

D. Sawransky: Right.

D. McGoey: But it's not in the same location where you show the driveway? You will have to revise the map to show where the easement will be from the property line.

G. Lake: You will have to provide us with new maps. Do you have a problem doing that?

D. Sawransky: No.

MOTION for a 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 a TWO LOT SUBDIVISION and LOT LINE CHANGE subject to all of Mr. McGoey's comments and this Board's comments 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

