

TOWN OF WALLKILL PLANNING BOARD

REORGANIZATION MEETING

JANUARY 5, 2005

MEETINGS: 1st and 3rd Wednesday Monthly and alternate Wednesday for work session and extra meetings.

NEWSPAPER: Middletown Times Herald Record

ENGINEER: McGoey, Hauser & Edsall

ATTORNEY: Greenwald Law Offices - Mr. David Brodsky

CHAIRMAN: G. Lake, motion made by R. Carr and seconded by P. Owen

VICE CHAIRMAN: T. Hamilton, motion made by G. Lake and seconded by P. Owen

TOWN OF WALLKILL PLANNING BOARD

MEETING

JANUARY 5, 2005

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

MEMBERS ABSENT: A. Dulgarian

OTHERS PRESENT: D. Brodsky, D. McGoey

1. PUBLIC HEARING 7:30 P.M. - **FINI** - SITE PLAN/SPECIAL USE PERMIT - Cemetery Road (78-1-26.2) #128-04

G. Lake: Mr. Yanosh, do you have the notice as it appeared in the paper?

D. Yanosh: No, I don't. I don't have it in my file.

G. Lake: We have not been able to find it in the Town Clerk's office either. I notice you did do your mailings. Unfortunately, without it appearing in the paper we're going to have to postpone this end of it and reschedule you for another Public Hearing without any kind of document.

D. Yanosh: If there is anybody from the Public, can we do that for now.

G. Lake: Just to avoid problems down the road, I don't think myself or the rest of the Board members would prefer changing.

R. Carr: Can I just ask a question. It was in the paper, you believe?

D. Yanosh: I believe it was.

R. Carr: Can we just delay the Public Hearing and do other business so he can get a copy of the notice from the paper within the next twenty to thirty minutes?

D. Brodsky: Was there a time frame when this had to be in the newspaper?

G. Lake: Yes, ten days before the meeting. Our past practice has been not to hear it but set a new Public Hearing.

D. Brodsky: It probably would be the same thing. If we can't prove it today, why don't we put it

back on. It would probably be the next meeting or the following meeting. We might just as well reschedule it. It is on the applicant to provide the notice.

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

R. Carr: No.

G. Lake: Anybody else? I think we're going to have to table this and reschedule it.

MOTION to TABLE this application and reschedule the PUBLIC HEARING for March 2, 2005 made by P. Owen and seconded by T. Hamilton.

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

2. **FINI** - 2 LOT SUBDIVISION - Cemetery Road (78-1-26.2) #111-04

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

D. Yanosh: My name is Dan Yanosh, surveyor for the project. This is the reason why we're doing the Site Plan. We are proposing a two lot subdivision. Lot #1 would be the proposed Site Plan for the building for which we rescheduled the Public Hearing. Engineering was done on both lots. I've shown the old buildings on the site and one of Mr. McGoey's comments was to take them off.

D. McGoey: Just have the sketch plan for the file.

D. Yanosh: I have no problems with any of his comments.

T. Hamilton: Does he have to do the agricultural notification?

D. Brodsky: Is he within five hundred feet?

D. Yanosh: I don't believe so.

T. Hamilton: It's zoned agricultural residence on here.

D. Yanosh: There's no agricultural exempt property within five hundred feet of the property.

T. Hamilton: Maybe they're not using it. It's a Goshen agricultural district.

D. Brodsky: If it's over the Town line I don't think that matters. If it's within five hundred feet, it's within five hundred feet so is the issue . . .

D. Yanosh: Do you want me to check the different Towns from now on?

D. Brodsky: Maybe you have to.

D. Yanosh: I checked the Wallkill maps and nothing is in the Wallkill area.

D. Brodsky: If it's an agricultural property or if it's within five hundred feet, you need to provide the proper notices.

D. Yanosh: Even to other Towns?

D. Brodsky: The statute doesn't distinguish between Towns. It just indicates agricultural properties.

G. Lake: Maybe you can give us a follow-up on that.

D. Brodsky: Just to be on the safe side I will research it but in the meantime my intellectual was that the agricultural marketing statute does not distinguish between properties in the Town or outside the Town.

G. Lake: Okay. Mr. Carr?

R. Carr: Outside of Mr. McGoey's comments, I have nothing.

T. Hamilton: Just verifying Mr. McGoey's comments

P. Owen: Nothing else.

W. Capozella: There was no curbs on any of these other places, but we're going to ask him to do curbs on this or something.

G. Lake: No, there's none out there.

D. McGoey: It's up to the Highway Department Superintendent. The ordinance requires curbed

entrances as a minimum.

W. Capozella: Oh, it does?

D. McGoey: It does. If the Highway Superintendent doesn't want it, that's another issue but he also has a few comments on the curbed entrances about culverts and so on. You just have to address them.

G. Lake: Do you have a problem with that at all?

D. Yanosh: No.

W. Capozella: Okay. That's my only comment really. I don't see the need for it.

T. Hamilton: Mr. McGoey, do we need anything from New York State being they border the State right-of-way?

D. McGoey: No, but Orange County Planning. You usually send it Mary Lynn to the County?

M. Hunt: Yes. They said local determination.

T. Hamilton: I just wanted to be covered on that.

G. Lake: Anything else Mr. Hamilton?

T. Hamilton: That's all.

G. Lake: If nobody has anything else . . .

MOTION for a NEGATIVE DECLARATION subject to Mr. McGoey's comments and then checking out the agricultural district and Mr. Lippert's comments made by R. Carr and seconded by W. Capozella.

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

MOTION for 2 LOT SUBDIVISION APPROVAL subject to all comments made by R. Carr and seconded by W. Capozella.

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

3. **WAL-MART DISTRIBUTION CENTER** - EXTENSION to FINAL - Route 17K (1-1-66)
#57-02

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

P. Hentschke: My name is Paul Hentschke.

G. Lake: You're looking for one final extension of the Site Plan/Special Use Permit approvals that were issued originally on February 26, 2003. We did, last February get our first one year extension and Wal-Mart requests one final. I think that's all we're allowed under the code actually. I think with the Special Use Permit, there's a maximum of two one year extensions allowed for that so this would be our last one year extension. Wal-Mart has difficulty with this project. It's a regional distribution center of 1.2 million square feet and the timing is crucial financially and they're modifying the distribution network to be successful for the Wal-Mart and for the community and for it to work there. Timing is very, very critical for that so we are requesting the Board to grant one final one year extension for those two approvals.

T. Hamilton: It says we can grant up to two.

R. Carr: I have nothing.

P. Owen: Nothing.

W. Capozella: Nothing.

MOTION for a ONE YEAR EXTENSION to FINAL made by P. Owen and seconded by W. Capozella.

P. Owen: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

G. Lake: Had to leave the meeting at this time. Mr. Hamilton, please continue.

4. **SGOBBA** - 7 LOT SUBDIVISION - FINAL APPROVAL - Route 302 (5-1-34.2) #103-02

T. Hamilton: Your name for the record, please.

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

T. Hamilton: You're asking for Final Subdivision Approval. Do we have documentation from the Board of Health?

M. Hunt: Yes. Board of Health and Department of Transportation on the driveways.

T. Hamilton: Anything outstanding with Mr. McGoey's latest comments?

J. Nosek: Just a few minor comments. There was a comment regarding the water quality trenches being so far from the houses and the driveways. We just thought it would be better to encompass the collection of anything from beyond the driveway up to and including the septic areas in case there is

a swimming pool or some other impervious structures that are created. If Mr. McGoey feels we should move them, we don't really have any objections to that.

D. McGoey: Well, the Board requested it just to pick up the runoff of the driveways so it wouldn't get into the wetlands. The trenches that you have are below the septics, right?

J. Nosek: Yes. We don't have a problem moving them up closer if you prefer it that way.

D. McGoey: I think you should.

J. Nosek: And the other comment about the attorney reviewing the subdivision notes regarding the notice of the rails to trails project. We have no objections to complying to those.

T. Hamilton: Mr. Carr, any questions?

R. Carr: Mr. McGoey, what do you think on those trenches?

D. McGoey: I think they should be at the end of the driveways.

T. Hamilton: Anything else, Mr. Carr?

R. Carr: No.

P. Owen: Nothing.

W. Capozella: I had a question but I see Mr. McGoey's notes here again about that existing driveway and then there's a note here about they're going to go to this trail and then maybe it's going to be opened for the public or something. Is that what that is?

D. McGoey: No.

W. Capozella: Because it shows that it's connected or something.

D. McGoey: My note has to do with the railroad right-of-way itself and the notes relative to notifying these property owners that this may be a pedestrian walkway at some future date.

W. Capozella: So, how are they going to get to it then?

D. McGoey: They're going to get to it from other locations that the Town was going to provide.

T. Hamilton: Just so that the homeowners know that may possibly there and people walking past their backyards. That's the reason for notifying them on the plan.

W. Capozella: I was just questioning whether this was going to be the access for that and that something may have to be done.

T. Hamilton: I don't think so.

W. Capozella: That's not the case?

D. McGoey: No.

W. Capozella: I don't have an issue. I like the idea of the combined driveways.

T. Hamilton: Anything else, Mr. Capozella?

W. Capozella: No.

T. Hamilton: Mr. McGoey, on those trenches, the water quality trenches.

D. McGoey: Right.

T. Hamilton: Are they the type that have the fabric on the bottom with the new regulations?

D. McGoey: They don't have to meet the new regulations. What we've asked them before is just put in an infiltration trench and they usually put that (not clear) wrapping on it.

T. Hamilton: So, it stays and not just for construction?

J. Nosek: It's permanent.

T. Hamilton: That's all I have.

MOTION for 7 LOT SUBDIVISION FINAL APPROVAL made by R. Carr and seconded by P. Owen.

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

5. **FREUND** - 3 LOT SUBDIVISION - VanAmburgh Road & Kaisertown Road (31-1-15.22) #04-137

T. Hamilton: Your name for the record, please.

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

T. Hamilton: Do you have the latest of Mr. McGoey's comments?

J. Nosek: Yes I do.

T. Hamilton: Any problems with any of the engineer's comments?

J. Nosek: No. There was one item I was not quite sure of. Apparently there's been some cutting of trees on the property.

D. McGoey: Yes.

J. Nosek: I will let our client know not to do. Do you know where they were cut?

D. McGoey: They were cut right there (showed Mr. Nosek on his map).

J. Nosek: We will discuss that with them and make sure that it's not continued.

D. McGoey: Item #1 the Board should be aware that the shaded areas on lots #1 and #2 are wetlands. So, there's a significant wetland area there on this property. My thought was that you may want to consider only a two lot subdivision.

J. Nosek: The only disturbance to the wetlands really is for the driveway crossing of lot #1 which will be crossed at the points which results in the least amount of disturbance so, I'm

comfortable that we will be just with this crossing here below a tenth of an acre of disturbance. The driveway, your earlier comment, we will move over to South Kaisertown Road. We have no objection to that but I don't think we're going to need to disturb more than a tenth of an acre in order to accomplish the two lots. The issue or the concern is that lot #3, these barns pretty much are in pretty bad shape especially the big barn in the back. They're in bad shape. I wouldn't say they're

going to fall down but they're missing a lot of timber wood, rotted underneath. They're pretty much going to be torn down eventually but the soil is really good soil. It's really a good sandy loam and he would potentially like to come in and do a short cul-de-sac and perhaps cut two or three lots off of it in the future.

D. McGoey: Well, why not take more land area for lot #1, a more build able area for that house and septic system off of that lot? Maybe that would salvage that lot.

T. Hamilton: Lot #1 right now, 4.234 acres, what is actually useable on that lot?

J. Nosek: The only portion that's useable obviously is the area upland of the wetlands. The problem is that if I give more land to lot #1 I create a situation whereby I can't get more lots on lot #3 to pay for the cul-de-sac because I need the area to do a three lot subdivision. So, by giving more land to lot #1, in effect, I may create a situation whereby the further subdivide ability of lot #3 which Mr. Freund does intend to do at some time in the future becomes in jeopardy and his contract for sale for the whole property is based on a certain number of lots. The lots do meet zoning. We are in compliance. Lot #1 is 4.23 acres and it does meet the soils formula. I can look into pulling the lot line back a little but I just don't want to jeopardize the further subdivide ability of lot #3. It is really good sandy loam. We did a lot of test pits out there and it's sand and gravel down as far as you can dig.

D. McGoey: Maybe you guys should go out and get a chance to look at it because it's not going to be easy to construct that driveway through that wetland. I mean, this is wetland. This isn't just one of those Federal wetlands. Fill to construct that driveway is going to be rather significant so, you say you can be less than a tenth of an acre but I'm not sure.

J. Nosek: Okay. We will provide grading on the plans and we will show the limits of disturbance and so forth to actually declare what the exact amount of disturbance will be.

T. Hamilton: Mr. Brodsky, now knowing our applicant is giving us information about future subdividing into more lots. As long as the moratorium is in affect now, I hope he realizes that in the future he may not be able to get those lots. Should we even be acting on this now since he's told us?

D. Brodsky: There are only two new ones before us now. So, I don't see any reason why we can't act on that alteration but the applicant should bear in mind that with the moratorium in affect it would be incumbent upon us not to allow multiple applications in order to circumvent the moratorium.

T. Hamilton: One more item is, after hearing the shape of the barns, I haven't been out to look at them. If they're in that bad of shape shouldn't we have them taken down so that we don't have to have the Town going out there to say they're a safety factor? Can't we accomplish it now?

D. McGoey: What you may want to do is ask the Code Enforcement Officer to look at them and see

if there are any violations that would require that they be taken down.

T. Hamilton: I just don't want to find out that they're in bad shape and we're going to end up having the Town go out.

J. Nosek: Yes. The one in the back is the worst one. The ones in the front are really not too bad but the one in the back is.

T. Hamilton: He's on for a Public Hearing, right?

D. McGoey: Yes.

T. Hamilton: Maybe we can all get out there before the Public Hearing and take a look at it and if Mr. McGoey has a problem with the driveway maybe he will have to make the lot bigger and have him get into a work session before the Public Hearing to have him change that layout if necessary.

D. McGoey: Yes. He can bring in the grading plans for that driveway to show that he will definitely be disturbing only a tenth of an acre.

R. Carr: If the moratorium were not in effect, this would probably look a lot bigger. Really, it would make more sense to add to lot #1 rather than trying to go through the wetlands.

J. Nosek: I would say for lot #1 that may be true, for lot #2 we were actually looking to make this a lot here so I think lot #2 would actually access off of where it's coming from now regardless.

R. Carr: Right. I think we should see a future plan development for us to see what lot #3 would look like. This would make a lot more sense coming off here to access that property rather than cutting through the wetlands.

J. Nosek: The problem is to build a road for two lots just doesn't pay.

R. Carr: I do understand that. It's just at the same time it's a jigsaw puzzle with the wetlands.

J. Nosek: The other thing to bear in mind is there is no guarantee that based on what the new zoning is that we could subdivide this lot so, there is a possibility that it may remain as is and that this may just be a three lot subdivision. He understands that.

R. Carr: It's just really tight.

J. Nosek: We're going to look into bringing the lot back a little.

D. McGoey: Mr. Carr do you want to ask for a sketch plan on lot #3?

R. Carr: Yes. I think just to see what it might look like.

J. Nosek: The rest of the comments are just standard engineering.

T. Hamilton: Mr. Owen, do you have anything else?

P. Owen: No.

T. Hamilton: Anything else, Mr. Carr?

R. Carr: No.

W. Capozella: None.

T. Hamilton: I think it's a good idea to see some kind of sketch on the availability of that other lot and making that one lot larger for better use of the property.

MOTION to schedule a PUBLIC HEARING for March 16, 2005 made by P. Owen and seconded by R. Carr.

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

6. **DAVIS** - 3 LOT SUBDIVISION - VanDewark Road (61-1-32) #127-04

T. Hamilton: Your name for the record, please.

L. Potter: My name is Lorraine Potter with Lanc & Tully Engineers.

T. Hamilton: Do you have a copy of Mr. McGoey's comments?

L. Potter: Yes I do.

T. Hamilton: Any problems with any of them?

L. Potter: No I don't have any.

T. Hamilton: Mr. McGoey, is there any further comments engineering wise?

D. McGoey: Well, I think I had made a recommendation to decrease the number of lots. There are a couple of lots that already use that private road. The private road is in reasonably good shape and it currently isn't a Town road. What the applicant is trying to do is to get three additional lots on a private road. There are also significant wetlands.

B. Davis: It would be two additional lots.

R. Carr: Maybe you can just briefly describe the three alternates.

L. Potter: Sure. The first option that Mr. Davis would like is the three lots with an easement over the existing private road. At this time the only lots that have permission or have an easement to use this road is the Mann's which would be this gentleman back here. These other two front lots even though they do have driveways that come out on the private road they actually don't have permission. They actually do have driveways that do front on Stony Ford Road. Mr. Davis would prefer to do a three lot subdivision and grant an easement over the existing private road. We have several other options that we had presented. The others are three flag lots which each would be coming out to the road being fifteen and a half feet wide approximately. The third plan would be for a private road with an easement over lot #2 for lot #3 and the fourth plan would be a three lot with a private road and with lot # being a flag lot.

T. Hamilton: Mr. Brodsky, shouldn't we have some kind of open area development approved by the Town before we add any more to these private roads?

G. Lake: Mr. Lake came in at this time.

D. Brodsky: You know there are Towns that actually encourage these type of private roads with maintenance agreements. I know that we haven't been anxious to have these but I think that the applicant really needs to know if they do get an open area road what the preference of the Board would be because frankly even if the Town Board grants the open development the Board would decide how many lots would access over that road.

G. Lake: Are we even allowed to create a lot that doesn't have road frontage?

T. Hamilton: I thought we had to go with an open area.

G. Lake: That's what I thought. I personally think we're going to end up with three new lots in the

back here. I just think for everybody's protection, I think they would be better off going to the Town Board and getting an open development. That way, we have all the documents in place and not only are these people protected but the future people as well.

D. Brodsky: The plan that I'm looking at doesn't show lot #3 having access to what would be the open area road.

G. Lake: Right.

D. Brodsky: So, obviously they would have to be a little creative on how they're going to be able to extend that open area road.

G. Lake: I'm not even sure we can do that with our zoning.

B. Davis: I just wanted to say my home is the one that's on there right now. Right now, myself and Mr. Mann are the only ones that use that road except for the two up front which uses the very end of it. Mr. Mann has an easement. This would add two other people besides myself and Mr. Mann to that road.

T. Hamilton: I think what Mr. Lake was trying to get at is that in the Town of Wallkill here any situation of this type needs to proceed with an open area development with the Town Board approving it with the type of road system that's private and then you go through the legal process of easements and who can use it and how it's paid for. The lots that don't really have permission to use it, what happens to them?

G. Lake: Left meeting at this time.

D. Brodsky: They're probably going to have to be incorporated into all the terms.

L. Potter: So, we would have to petition the Town Board in order to do that.

D. Brodsky: To designate the road. Right now, bear in mind that the Planning Board would like to see a direct access off of that open area road for all the lots.

L. Potter: Now, would that also require the roads to be improved to be widened?

D. Brodsky: Not necessarily at the Town Board level.

L. Potter: But I mean at the Planning Board level? This is something that I think Mr. Davis would like to know.

D. McGoey: The standards that we've used so far is that the width of the road would be according to

base road specifications.

L. Potter: Twenty four feet wide.

D. McGoey: The pavement surface would be twenty four and a double surface.

L. Potter: And that would be most likely what would be required in order to do the open area development?

D. McGoey: I would say. I wouldn't recommend any less.

L. Potter: As an alternative, at Mr. McGoey's request we did look at look at doing a two lot subdivision. This would also be flag lots. Discussed plan with Board members.

R. Carr: What happens to the other people who are on that driveway?

L. Potter: One has an easement over it. I believe we would have to grant easement for both of these over this.

B. Davis: I would have (not clear).

R. Carr: So it would be two flag lots with the road that is there right now would remain as is on both of the lots.

P. Owen: The easement for lot #1 (not clear).

T. Hamilton: We try to make them wide enough so that if there is a problem they have enough room.

L. Potter: The new lots will utilize the driveway the way it is now.

B. Davis: If they were ever to fight down the road, yes each would have twenty five feet driveways if they wanted to do it that way.

P. Owen: Why not just give them separate driveways?

D. McGoey: It's a pretty nice road there now. I don't know why you would want to split the road into two driveways particularly when you have the other three or four lots using that road.

P. Owen: That's why I was thinking the lots on one side using one driveway and the other side using the other one.

T. Hamilton: Then you would have to have two agreements.

L. Potter: Yes, and the fact that the road is established there now, I think it would be less interruption for the whole site.

W. Capozella: Just from my own personal experience with easements, even though you have them, they're not necessarily, nobody enforces them.

D. Brodsky: That's when you get to the owners.

W. Capozella: In other words, I'm just looking for whatever terminology we need to review it and make sure we protect the eventual home owner that's going to be living in these.

D. Brodsky: Well, we can review the agreement in accordance with the map so that we can at least be sure that the rights of all the lots accessing the driveway are protected sufficiently. After that, it's up to the individual owners to comply, just like any other easement there's always the potential for litigation if one party doesn't live up to their obligation. Certainly we're protecting the lot owners of their rights and they would have the opportunity to enforce the agreements that are recorded with the map.

W. Capozella: Again, my concern is eventually they could have a problem down the road. Obviously, it all depends.

L. Potter: Also, with the two lot, the other people have already been utilizing the road without any problem.

W. Capozella: I would just like to protect to make sure at least we have something that at least looks legitimate that the home owners at least pretty much respect it.

D. Brodsky: Obviously it would have include the existing lot owners that are using the road for whatever maintenance agreed is required.

T. Hamilton: We're looking at the two lots.

P. Owen: That's my favorite alternative.

T. Hamilton: Should they set up a work session with you?

D. McGoey: No. She probably needs another Planning Board agenda.

L. Potter: Okay.

Tabled for further review.

7. **491 NORTH STREET LLC.** - SITE PLAN MODIFICATION - 491 Route 17M (38-8-9)
#135-04

T. Hamilton: Mr. McGoey, have you gone out and looked at this fence or what's there now?

J. McCarey: The existing back of the whole back end is Mr. Lachman's property. That fence exists and it's been there. The only part that we added here was the front part with the gate. All the fence in the back belongs to Mr. Lachman.

R. Carr: The fence is more than six feet though.

J. McCarey: It's less than six feet.

R. Carr: In the front where we're talking about, the gate?

J. McCarey: It is six feet.

T. Hamilton: The fence in the back is whose fence?

J. McCarey: Mr. Lachman's. What he did they filled in this one side of the yard. Mr. Lachman's fence was in the back of the yard. There was a fence on the side of the yard. Tim came across the front of the yard to enclose it.

D. McGoey: I don't see any problem.

T. Hamilton: Do you want the green inserts?

R. Carr: I would say the green inserts would be nice.

Unidentified person: I would prefer a small variety of plants.

T. Hamilton: We've been kind of leaning toward the green inserts that looks like pine needles. That seems to hold up.

J. McCarey: Were you looking for inserts just across the front?

R. Carr: Just the front.

Unidentified Person: I don't know if the gate can be done.

J. McCarey: He's a landscaper. He wants to make his place look half way decent.

T. Hamilton: Anything else Mr. McGoey.

D. McGoey: No.

P. Owen: No.

R. Carr: Nothing.

W. Capozella: No.

T. Hamilton: I don't have anything.

D. McGoey: Just revise the Site Plan showing the landscaping.

MOTION for SITE PLAN MODIFICATION for fence and additional landscaping made by R. Carr and seconded by P. Owen.

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

8. **CRESCENT COVE** - 2 LOT SUBDIVISION - Route 302 (7-2-2.3) #0147-04

T. Hamilton: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh, surveyor for the project. This is a unique situation. This is Mr. Miller's property at the end of Henderson Drive. The Henderson Drive four lot subdivision was approved and filed in November of 2003. The road was bonded. He's going to start building houses on the two end lots here pretty soon. Mr. Miller also owns the other side of the railroad tracks. He did purchase the railroad track from Gagliano line here to the bottom of the map all the way out to Coutant Road. He does own that piece of property now. We understand that the Town is going to put in the rail trail through there and Mr. Miller has no problem doing what ever has to be done for that rail trail to be done. True, this side of the property is landlocked. We want to cut two lots off of it consisting of a 3.25 and 3.62 pretty nice wooded lots. The question is do I extend the road to the rail trail, bring two flag lots off of that turn-around to give access back there? We have no problem dedicating the rest of that right-of-way to the Town for the rail trail as we go along here.

R. Carr: Who owns the driveway for the trail?

D. Yanosh: Everything when it was given up by the railroad company, the Boniface's bought a bunch of it. Mr. Gagliano bought this piece here from here over to Decker road. Everybody bought what ever they wanted to.

R. Carr: So, how is it that the Town is looking to put a trail here if it's owned by several individuals?

D. Yanosh: I don't know much about it. I believe the Town purchased those properties up to put a trail here. I know they were in there a couple of months ago doing surveying work in there. The County hired Clough Harbor to do some work in there getting ready to take the land over.

D. McGoey: But they're purchasing for a fee.

D. Yanosh: A fee or a donation maybe, whatever they have to do. I talked to Mr. Miller about this and he had no problem donating the rest to the Town or whatever. He has a right to do that.

R. Carr: I was under the impression that there was already some sort of an easement that led to whoever is putting this trail in. Basically, it just happens to be that there's a path there and it's owned by private individuals.

D. Brodsky: Is there a reservation at present to put in the private path?

D. Yanosh: We have to talk to the Town Board about that. I know they were looking to put a culvert across Goshen Turnpike so that the road goes across. All these plans were set two or three years ago and the Town Board shot it down.

T. Hamilton: That part of the railroad bed, I believe is what the Town owns.

D. Yanosh: They might. I have no idea. They wanted to extend that all the way to Route 17 all the way through, almost to Crawford.

T. Hamilton: Mr. McGoey, wouldn't it be better for him to have this Henderson Drive be extended across that rail trail now so that these two new lots don't have a driveway that goes through a rail trail?

D. McGoey: Yes, but I'm not sure you want the rail trail cut by a Town road.

D. Yanosh: There are other rail trails that cross over roads, Goshen is one. I think if the road stopped here, anyone who wants to turn around has to turn around here. They're not going to cross that rail trail to turn around some place. I have two private driveways going in limiting the access across that rail trail.

T. Hamilton: Normally on most rail trails there is no vehicle access to the rail trails at all.

D. Yanosh: Correct.

T. Hamilton: But you're going to have two peoples' driveways on these two new lots that they have to cross that rail trail.

D. Yanosh: They're going to put the barriers through here like I do over in Goshen at South Street. There are places where they will be crossing the trails.

T. Hamilton: Then we have to have an easement and right-of-way from these two lots to be able to cross over the rail trail to get to the Town Road. Wouldn't it be better if the Town road crossed the rail trail, then have the "T" turn-around?

D. McGoey: Maybe we ought to take that up with Mr. Lippert.

D. Brodsky: Mr. Yanosh, at present, the owner of the rail trail property is also the applicant's?

D. Yanosh: Yes.

D. Brodsky: So, are we looking to modify the lot line as well so these properties abut?

D. Yanosh: I can do what ever you want.

D. Brodsky: What I'm thinking is to move these lots down here and then if there's a taking later, it will be dealt with privately, it's not our problem.

T. Hamilton: Mr. McGoey, like you said, go to Mr. Lippert and find out what they're looking to do with this?

D. McGoey: Yes.

D. Yanosh: And maybe we should talk to the Town Board members on this.

T. Hamilton: Any other problems on your comments Mr. McGoey?

D. McGoey: No, unless Mr. Yanosh has any.

D. Yanosh: No.

D. McGoey: Henderson Drive, is it a Town road?

D. Yanosh: It hasn't been built yet. It was bonded.

R. Carr: So maybe that should be brought up to Mr. Lippert.

D. Brodsky: Mr. Yanosh, who bonded the road?

D. Yanosh: (Not clear). It is bonded.

W. Capozella: It's a proposed Town road. It doesn't mean it's going to be a Town road. It's bonded to improve it.

D. Yanosh: The question is how do we make that access. The Attorney said to move the lot line over here on the northerly side of the rail trail and have our lots go down to the Phase

2 lots and then when the Town goes through with the road they will have to deal with the people. That's another option. But we don't want to do that.

T. Hamilton: Let's find out what the Highway Superintendent is looking for and what the Town is looking for.

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

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

9. **CRYSTAL RUN REALTY (Mayefski)** - SITE PLAN MODIFICATION - 236 Crystal Run Road (60-1-15.1) #106-04

T. Hamilton: Your name for the record, please.

J. Chumard: My name is Jeff Chumard.

T. Hamilton: Can you explain what the modification is going to be?

J. Chumard: Yes. Dr. Mayefski is one of the principals in the property and they wish to expand the existing parking lot they have and, in doing so bring it into conformance with the parking calculations for the site of the building. They do utilize some of the basement. We calculated the number of parking spaces that would be needed to meet the parking calculations. I have shown the layout of that. The project would include the relocation of a portion of the sidewalk and minor additional drainage.

T. Hamilton: What about landscaping?

J. Chumard: I haven't proposed any landscaping due to the limited size of the site. The back of the property faces woods. If the Board wants landscaping . . .

D. McGoey: The landscaping in the front isn't too bad. Maybe a couple of hardwoods would be appropriate. I did notice in the back, there's a chain link fence with air conditioning that you don't show on here.

J. Chumard: It's there. We've modified the plan to show it.

T. Hamilton: What about the striping?

J. Chumard: The existing striping is single lines. It's not the double striping. One of Mr. McGoey's comments was to re-stripe the existing striping.

T. Hamilton: I think if you're adding new spaces where you're going to have double striped you should have the rest of them doubled also.

J. Chumard: Could that be a condition of approval?

T. Hamilton: Handicapped spaces, do they need any more?

D. McGoey: I don't believe they need any more based on the number of parking spaces on the site. They've got four.

R. Carr: Six.

D. McGoey: Oh, yes.

T. Hamilton: Mr. Owen, do you have anything?

P. Owen: Other than Mr. McGoey's comments.

R. Carr: What is the reason for this? Are they crowded now?

J. Chumard: To be honest, I have never seen it crowded but Dr. Mayefski really wants the additional parking. There are probably times during the day that they probably fill up.

T. Hamilton: They needed more for the additional square footage.

R. Carr: Yes, but . . .

T. Hamilton: He has to go by the square footage of our zoning law. He's using the basement that he wasn't using before.

J. Chumard: Yes.

T. Hamilton: That changed the amount of square footage.

R. Carr: Okay.

W. Capozella: I guess the catch basin, put one more in for the additional drainage.

D. McGoey: He doesn't want to trap water behind the sidewalk. That's a low spot.

T. Hamilton: The rest of your comments he can handle?

D. McGoey: Yes.

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

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

MOTION for SITE PLAN MODIFICATION for additional parking made by P. Owen and seconded by R. Carr.

P. Owen: Aye

R. Carr: Aye
W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES

10. **WE DO WINDOWS** - SITE PLAN/SPECIAL USE PERMIT - 73-75 O'Haire Road (46-1-76.1) #148-04

T. Hamilton: Your name for the record, please.

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

T. Hamilton: Any problems with Mr. McGoey's comments?

L. Potter: No.

T. Hamilton: Do you have anything else Mr. McGoey that you need?

D. McGoey: No. I took a ride out. The rear parking lot needs some details on that?

L. Potter: I verified that. It is a real solid gravel base and the grass has overgrown. You talked about adding additional trees. We've added quite a few in the front here. They're probably about thirty feet apart. There are quite a few existing ones.

D. McGoey: When you go on the site it doesn't look like there is anything near the building.

Unidentified Person: The ones up to the right are mature trees.

L. Potter: On the side we're going to put some white pine.

P. Owen: Nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

T. Hamilton: We Do Windows, what does that mean?

Unidentified Person: We clean the windows.

MOTION to schedule a PUBLIC HEARING for March 16, 2005 made by W. Capozella and seconded by R. Carr.

P. Owen: Aye

R. Carr: Aye

W. Capozella: Aye

T. Hamilton: Aye

MOTION CARRIED. 4 AYES