

September 9, 2009

1

TOWN OF NEW WINDSOR

PLANNING BOARD

SEPTEMBER 9, 2009

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HENRY VAN LEEUWEN
HOWARD BROWN
DANIEL GALLAGHER

ALTERNATE: HENRY SCHEIBLE

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER
BUILDING INSPECTOR

NICOLE JULIAN
PLANNING BOARD SECRETARY

DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

REGULAR_MEETING

————— —————
MR. ARGENIO: I'd like to call to order the September
9, 2009 meeting of the New Windsor Planning Board.
Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was
recited.)

MR. ARGENIO: I'm going to go a little bit off the reservation here just for a moment and I want to have just a very quick brief recognition in the form of a moment of silence for Nancy Pullar. I don't know if anybody knows her but just very briefly she was challenged and she was a flagman for the Laborer's Local 17 for many, many years and she carried her weight and she towed the line and she was a very, very good person. Subsequent to that she was a Town of New Windsor employee, she worked for the Highway Department again as a flagman and I don't know how many of you are familiar, Mr. Bedetti, you probably are, Leo, you probably are, her dad was the Highway Super here in the Town of New Windsor for quite a few years. He's the one who formulated our capital road program. She passed away of cancer four or five days ago at the age of I think 43 years old, very, very sad, very, very sad situation. I went to the wake, my wife went to the wake. So just we'll have a very brief moment of silence.

(Whereupon, a moment of silence was held in memory of Nancy Pullar)

MR. ARGENIO: Thank you everybody for indulging me on that, I certainly appreciate it. That said we'll get going.

APPROVAL_OF_MINUTES_DATED_7/15/09

MR. ARGENIO: First item on tonight's agenda is the approval of the minutes dated July 15 sent out via e-mail, if anybody sees fit, I'll accept a motion that we accept them as written.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board accept the minutes dated July 15 as written. I'll have a roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

ANNUAL_MOBILE_HOME_PARK_REVIEW

WALTERS_MOBILE_HOME_PARK

MR. ARGENIO: Next on tonight's agenda is Walters Mobile Home Park. Can I please have your name for the benefit of the stenographer?

MR. DANTAS: Alan Dantas.

MR. ARGENIO: Jen, can you share with me a little bit on Walters Mobile Home Park?

MS. GALLAGHER: Someone from my office has been out and it's in impeccable shape.

MR. ARGENIO: We always hear good things about you that I certainly commend you, thank you for. Do you have a check in the amount of \$515 made out to the Town of New Windsor?

MR. DANTAS: Yes, I do.

MR. ARGENIO: I will accept a motion if anybody sees fit for an extension of their one year permit.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded we offer Walters Mobile Home Park one year extension. I'll have a roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE

September 9, 2009

5

MR. ARGENIO AYE

MR. VAN LEEUWEN: He does keep a very nice place.

MR. ARGENIO: Thank you.

REGULAR_ITEMS:

TENDER_LEARNING_CARE_SITE_PLAN_AMENDMENT_(09-26)

MR. ARGENIO: Tender Learning Care site plan amendment. This is on New York State Route 94. This application proposes 64 x 24 modular classroom toward the rear of the site. The plan was reviewed on a concept basis only. Mark, very briefly this TLC business, can you tell us, seems to be my memory tells me that they were here before, just briefly for the members of the board.

MR. EDSALL: This was application 06-26 under the same name, same use, it was stamped approved by the board on April 26, 2007.

MR. ARGENIO: Okay, can I have your name and the firm you're with?

MR. MIELE: Mike Miele, engineer for the applicant.

MR. ARGENIO: Tell us what you're doing here, Mr. Miele.

MR. MIELE: This is Aida Torez, she's the owner of the business, she's looking to put a trailer in the back to accommodate possibly 12 more maximum children to include in her daycare business. The amount of parking is staying the same, it will be dictated down at the bottom what her current use is with the number of kids, Monday, Wednesday, Friday and still the number of parking can handle it. When we were with Mr. Edsall at the workshop, we talked about maximum parking, the worst case is a party she had last year she still didn't fill up the parking, that was the issue we were talking about most.

MR. ARGENIO: Does the count work or not work per code?

MR. MIELE: Does the parking work?

MR. ARGENIO: Your parking count, does it work per code?

MR. MIELE: It works per code based on the number of kids that are there at one time, if you add up a specific number of children that can be there during the week it doesn't but not all of them are there because she only has four full time kids then one Wednesday, Friday, Tuesday, Thursday and those two are split in mornings and afternoons.

MR. ARGENIO: What's the age?

MS. TOREZ: Three to five.

MR. ARGENIO: Go ahead.

MR. MIELE: So that's what she's looking for. That's probably the maximum size since she's been talking with some modular building companies, it probably will be smaller, it definitely will not be larger than that but I think you, the people you spoke to probably it's going to be smaller but we figured show the worst and it will--

MR. VAN LEEUWEN: Why do you want to go modular?

MR. MIELE: We won't say modular, it's going to be on a footing, it's going to be a trailer on a footing.

MR. VAN LEEUWEN: Still modular.

MR. MIELE: As opposed to something permanent?

MR. VAN LEEUWEN: I'd much rather see something permanent. I'm not crazy about modulars, I'll be honest with you, I have no problem but except the modular problem.

MR. MIELE: I think more of a cost issue.

MR. ARGENIO: How many feet is it?

MR. MIELE: How many feet?

MR. ARGENIO: Square feet is it?

MR. MIELE: It's 1,300 square foot.

MR. ARGENIO: You have to remember too Henry that I have to tell you having young children myself and Daniel will attest to this daycare is a bear, it's expensive, it's expensive and I'm sure you're doing it in that fashion to keep the cost manageable. What kind of structure, it's not a trailer with wheels on it, set on a proper footing with frost walls?

MR. MIELE: Yes, it will be exactly, there's, it's pretty much sonit tubes throughout every four foot on the outside and right down along the center wall and everything is built up, insulated underneath lining a modular home trailer insulated so it can be through the winter.

MR. ARGENIO: There was an issue as I recall with a fence that was on somebody else's property. Do you recall this? Does anybody recall?

MR. SCHLESINGER: In the front.

MR. ARGENIO: What's the deal with the fence, Mark?

MR. SCHLESINGER: It's the height of the fence it was in the front.

MS. TOREZ: Yes.

MR. GALLAGHER: It's your fence on the Vails Gate Fire Department property, we did address it the last time I

believe.

MR. ARGENIO: I thought we did but I see a fence here on what would be the east side on the fire company's property not impacting it so I really don't know how much it affects what we're doing here tonight and those folks over there tend to be pretty good folks, pretty good people. So as I said, I don't know how much Mark if it's an issue.

MR. EDSALL: I recall the discussion and I believe we had back in the 06 application we had some type of communication from the fire district that they back in '06 that they really had no issue with it, the fence was always there and if it was going to be replaced they wanted it moved but they had no--

MR. ARGENIO: Okay, that's, I don't remember exactly.

MR. VAN LEEUWEN: Should be a letter put in the file.

MR. EDSALL: I think it goes back to the 06 application probably has something in the file.

MR. ARGENIO: Dominic, can we lawfully approve it with that fence there? I mean, is that an issue? Are we going beyond our--

MR. CORDISCO: No, I don't believe that it is especially if there's been no objection from the fire department.

MR. ARGENIO: As I said--

MR. VAN LEEUWEN: But I think we should have that letter in hand before we give any approval, okay.

MR. CORDISCO: Alternatively, it could be a condition of the approval as well.

MR. ARGENIO: I want to read this comment to you from Mark. The plan depicts sanitary piping which we would assume is tied to the public system, note 7 indicates property is not in a sewer district and served by an on-site sanitary disposal system. Please explain.

MR. MIELE: It's a typo, it's connected, I can remove that, that it is connected into the town system.

MR. ARGENIO: It is.

MR. MIELE: It is, there's not a septic there that the existing building is connected into the main system in the street that's also what the new building will be.

MR. ARGENIO: What about the water?

MR. MIELE: Same thing, we'll be connecting into the water system, not individual well, off the water system off 94.

MR. VAN LEEUWEN: So this building is going to be connected directly to the sewer system?

MR. MIELE: The outside system is going to be connected to a cleanout located right outside so we're not going into this building, this building, the existing sewer comes out from a cleanout and runs out to there so we're going to be tying in that cleanout.

MR. VAN LEEUWEN: Okay.

MR. ARGENIO: Which side of the highway does your water connects, is that in the highway or is that going to be connected to the water for the existing building?

MR. MIELE: The water we're going to connect to the existing building, we're not doing any work out in the street.

MR. SCHLESINGER: I have two things, electrical service.

MR. MIELE: There will be a sub panel here and then we'll run underground.

MR. SCHLESINGER: And you have a fenced-in playground?

MR. MIELE: Correct.

MR. SCHLESINGER: Okay, and access to that playground from the existing building is through the first floor exit?

MR. MIELE: Okay.

MR. SCHLESINGER: Is that correct?

MR. MIELE: Correct, that's how you get to the playground from here.

MR. SCHLESINGER: And the children that are proposed to be in the new modular are going to have access to that playground?

MR. MIELE: To the gate right on the--

MR. SCHLESINGER: That's what I was looking for, I didn't see the gate and I'd rather have the kids go through a gate than the parking lot.

MR. MIELE: They won't have to go on the road.

MR. ARGENIO: Mark, one question, the fence is as illustrated exactly on the property line, is that an issue the proposed fence?

MR. EDSALL: I don't believe so. We have a lot that in the town that are on the property line, we normally recommend if it's single ownership to have it set back

but if it's there already, again, I don't know whether or not we require a relocation of fences.

MR. ARGENIO: I think we're passed that, what I'm asking about is the proposed fence.

MS. GALLAGHER: A fence can go right on a property line.

MR. ARGENIO: It can, Jen, perfect, I'm not looking for reasons to muck it up but I do want to be clear.

MR. VAN LEEUWEN: You have to know we have to be right otherwise if somebody comes in here and says this isn't right we've got a problem.

MR. ARGENIO: Mark, what about the fire people? I don't have anything from fire.

MR. EDSALL: Did we not get a referral?

MR. ARGENIO: You guys know anything about that?

MR. MIELE: Any review from the fire department?

MR. ARGENIO: Yeah.

MR. MIELE: No.

MR. EDSALL: Mr. Chairman, the standard that we caution them they had to comply with is the similar modular construction and classification as what's at the Windsor Academy which were reviewed by fire, we have told them that there's a particular standard that the fire inspector's office will impose when they issue the building permit so they have been cautioned about that.

MR. ARGENIO: The only thing that I'm thinking of is I'm going in a bit of a different direction than you, this access issue always seems to come up with the

aisle width and such, they're right next to the fire department, I mean, couldn't get better geography but aisle width always seems to become an issue. This is very, very minor in nature, very minor in nature.

MR. VAN LEEUWEN: But it's got to be addressed.

MR. EDSALL: It was referred to them, they just didn't respond.

MS. JULIAN: Did you have them at the meeting?

MR. EDSALL: I don't recall if they came to the workshop or not.

MR. ARGENIO: Check your notes, we'll come back to this. Orange County Planning has responded local determination and as I said to everybody earlier we did go through this pretty thoroughly a few years ago. Do you remember it?

MR. SCHLESINGER: I remember with the fence.

MR. ARGENIO: Suddenly they stopped coming back, maybe you said something that offended them.

MR. SCHLESINGER: Happens all the time.

MR. ARGENIO: We did have a public hearing at the last application and this one is substantially the same and I certainly do not remember any public outcry about this. Does anybody remember anything different than myself?

MR. VAN LEEUWEN: I wasn't here that night.

MR. SCHLESINGER: I make a motion to waive the public hearing.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded we waive the public hearing for Tender Learning Care. Roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. BROWN AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. ARGENIO: I think that's the right thing to do, as I said certainly no issue last time and the fire folks tend to be pretty, pretty decent folks and they are the significant neighbor next door. If anybody sees fit, I'll accept a negative dec.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare a negative dec under the SEQRA process. Roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. BROWN AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. ARGENIO: Did I do that backwards, Dominic, do I need to hit lead agency first?

MR. CORDISCO: You don't because this doesn't require coordinated review, this board's automatically lead

agency.

MR. ARGENIO: Mr. Van Leeuwen says yes in the affirmative and I say yes as well. What about this fire thing, Mark, anybody else have anything Howard or Neil? This is simple. Danny, you guys, Henry?

MR. GALLAGHER: No, nothing. Town trash pickup, does the town pick up trash?

MS. TOREZ: Yes.

MR. EDSALL: I have no record of them attending any of the workshops so at minimum if you're leaning towards a conditional approval, it would have to be conditioned on approval from the fire inspector's office responding to a referral.

MR. VAN LEEUWEN: Plus we need the letter from the fire department.

MR. ARGENIO: Understood. Yes, I don't like doing a me too and putting those guys on the spot but this is pretty simple and they have been here before and I don't recall any significant issues last time. What am I missing, Dominic?

MR. CORDISCO: Nothing, sir, the board could grant conditional approval depending on the condition being the fire department review and in regards to confirmation from the fire department regarding the fence on the point of the fence it's difficult to know as to who put the fence there, it could have been them, could have been their prior owner on the site.

MR. ARGENIO: We should have the permanent file be clear though, I agree with Henry.

MR. CORDISCO: Correct, and it could be nothing more than a letter from the fire department saying they have

no issue with the fence in its current location.

MR. EDSALL: We should check the prior file because it may be there, if it's not in that file we have to get it now but if it's in there--

MR. CORDISCO: If it's in the prior file I would suggest that it would satisfy that condition.

MR. ARGENIO: I would agree.

MR. SCHLESINGER: I just thought of something. How do the kids get to the building?

MR. MIELE: From where, from the parking area?

MR. SCHLESINGER: From the parking area or from the existing building?

MR. ARGENIO: You don't show a walkway I think is Neil's point.

MS. TOREZ: From the parking lot they go right into the first gate and they walk through the grass back yard to the back.

MR. SCHLESINGER: So they're walking through grass?

MR. ARGENIO: From here I think to here.

MR. SCHLESINGER: Yes, from the entrance of the building to wherever they're coming from there's no walkway and I think that you may be vulnerable to having a problem when you start getting snow and ice and things like that.

MR. BROWN: And mud.

MR. VAN LEEUWEN: I think we should have some kind of sidewalk.

MR. GALLAGHER: From the modular to the existing building?

MR. SCHLESINGER: To wherever.

MR. ARGENIO: To the parking lot, I'm sorry.

MR. SCHLESINGER: Okay.

MR. ARGENIO: I agree with that, that's good, that's a very good point.

MR. CORDISCO: Has there been a motion and a second?

MR. ARGENIO: There's not been a motion and a second.

MR. VAN LEEUWEN: I will move the motion.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we offer final approval to TLC Learning Care Center subject to their getting approval from the fire inspector, subject to them installing a sidewalk from the parking lot to the new structure at a width of?

MR. EDSALL: Should be at least four or five feet, five probably preferable.

MR. ARGENIO: Five feet.

MR. EDSALL: Asphalt matching the pavement acceptable?

MR. ARGENIO: I think that's okay, yeah, and the third item is that the town ultimately is in possession of a letter that indicates that that fence location on the neighbor's property is okay, whether the source is Nicole finding the letter in the old file or you folks getting it, I don't care, but you guys should contact

September 9, 2009

18

her tomorrow, next day, see if it exists and we will not stamp the plans until you tie those three things down. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

SONIC_DRIVE-IN_SITE_PLAN_(09-25)

MR. ARGENIO: Next Sonic Drive-In site plan. The application proposes drive-in type restaurant facility in the existing commercial lot adjacent to the Wal-Mart site. The plan was previously reviewed at the 19 August, 2009 planning board meeting. Your name for the benefit of the stenographer?

MR. SLATER: Doug Slater, Steve Roberts, my partner.

MR. ARGENIO: What do you got, guy?

MR. SLATER: Well, our engineer, Dan Koehler, couldn't be here tonight, he presented for us last time. I'll try to do the plans for us. Last meeting the board had a few questions, Mark had a few issues that have been addressed on the most recent set of plans, some including curbing of the site, some that it's consistent with the Wal-Mart site. So the new plans show curbing around the perimeter landscape has been addressed and was made to coincide with the credit union next door, I think he's discussed both these issues with Mark. The sign package has been changed showing simply one sign on the building, one pedestal entrance and exit sign and separately we have addressed the menu housing.

MR. ARGENIO: What does that mean you've addressed them?

MR. SLATER: Well, we have broken them out separately and at the last meeting we talked about them being menus, not signs and we'd need to have an interpretation from the zoning board.

MR. ARGENIO: Who was not at the meeting when they came here last time? Who was not at the meeting?

MR. VAN LEEUWEN: I was here.

MR. ARGENIO: Go ahead.

MR. SCHEIBLE: I wasn't.

MR. ARGENIO: Very briefly, the issue is when you pull up and there's a menu board there that says you can have this, this, this and this.

MR. SCHEIBLE: I was just in one last week.

MR. ARGENIO: So you know the deal, are they signs, are they menu boards, so I think we're going to leave the ZBA for interpretation of that.

MR. VAN LEEUWEN: I don't see where we have a choice.

MR. ARGENIO: I will stop there. Go ahead, sir.

MR. SLATER: Part of the package you received the town asked for a picture of our current Sonic in Kingston that's been provided and a rendering of the building that we're proposing here. The difference between the two, you have copies of that?

MR. ARGENIO: Yeah, I don't understand, I thought we went, had a lengthy discussion about having the rendering be not elevations and some type of colored architectural.

MR. SLATER: Yes, we do, we have them right here.

MS. JULIAN: It's in the packet.

MR. ARGENIO: That's a color rendering? It's colored, it's colored, black and white.

MS. JULIAN: Someone has the colored.

MR. VAN LEEUWEN: Is that the Kingston one?

MR. SLATER: This is the rendering, the prototypical rendering.

MR. ARGENIO: Stone or brick?

MR. SLATER: We're doing brick.

MR. ARGENIO: Does it matter to you what you do?

MR. SLATER: Well, the idea is that it match the Wal-Mart.

MR. ARGENIO: That's not what I asked you.

MR. SLATER: Does it matter to us? Not particularly.

MR. ARGENIO: Okay, this is what we asked for. Go ahead.

MR. SLATER: That's really the bulk of it. I think Mark had brought up an issue with Dan regarding handicapped parking, our plan shows two handicapped spaces which is typical of Sonic, something, that's something that we do, however, our interpretation is that really only one handicapped spot is required. Mark, just bringing up the handicapped issue, the handicapped parking issue?

MR. EDSALL: I'm meeting with your engineer next Wednesday to try to resolve the issue.

MR. SLATER: Dan misinterpreted the Sonic prototype, we show two handicapped spots which is typical of the Sonic but the requirement for the site we really feel is just the one is one handicapped spot that because the two stalls that we show are all handicapped, all of our stalls we're serving at sort of like our dining room, it's our tables so we have 20 other parking spots on the property which would only require one

handicapped spot, we're showing two, one of them I think town has a larger requirement for the space adjacent to the striped area next to the spot we're showing and that's 8 and 8, another one that's 8 and 5 or 9 and 5, alternatively, we can take three regular spots combine them to make two 8 and 8 spots, we could really leave that for your determination.

MR. ARGENIO: I'm not going to, personally, I'm not going to unless somebody else has a comment get into the handicapped thing, get with Mark, you have to meet code, that's it. I'm not going to pick on that fight, I have enough other fights in my life.

MR. VAN LEEUWEN: I agree, I'd rather see the two than the one.

MR. ARGENIO: Did you, you did put the flag pole in.

MR. SLATER: Yes, flag pole, additional trash bins we have detailed the trash enclosure as being masonry to match the building.

MR. ARGENIO: Is the parking lot run with curb?

MR. SLATER: Yes, we changed the entire lot to be curbed again to match the existing.

MR. VAN LEEUWEN: Blacktop curb?

MR. SLATER: No, to match the Wal-Mart concrete curbing.

MR. ARGENIO: Yeah, that's good.

MR. VAN LEEUWEN: I said it for a reason, we've got guys who do that.

MR. ARGENIO: The referral to Town of Newburgh, referral to Town of Newburgh Planning Board, referral

to county is all necessary, part of this, and Nicole informs me all that's gone out, be advised, sir, that we need to hear from fire, fire people.

MR. SLATER: We did meet with the fire people.

MR. ARGENIO: That's fine, get a letter on file with her so it shows up here and that's great. The prior application was very, very much an anomaly being that they got their approval subject to that, we don't usually do that but they were here for quite a few meetings a few years back and it's very, very simple so we need to tie that up.

MR. CORDISCO: Mr. Chairman, we'll also need a referral to the Zoning Board of Appeals.

MR. ARGENIO: I will get to that, thank you, counselor.

MR. EDSALL: Can I narrow down the comments just to say something positive?

MR. ARGENIO: Go ahead, Mark.

MR. EDSALL: The comments last meeting were extensive, they have resolved all of the issues except we've just got to finalize the handicapped as was indicated, they have shown concrete curbs to comply with the rest of the site, they should probably confirm that even though it's not labeled that's what they intend.

MR. SLATER: Yeah, I'm under the impression set of plans shows it.

MR. EDSALL: Shows it but doesn't call it out, we have been on that road before where we have been told no plan.

MR. SLATER: For the record, plan is to be concrete curb.

MR. EDSALL: There's some dimensional issues to confirm parking space sizes, I believe they're correct. One of the issues you should talk to them about is the number of trash receptacles, I understand the operation that the servers frequently check to make sure that they're not overloaded but make sure that you're all in agreement on how many and where they are because these type of sites generate waste, we don't want that to impact the rest of the overall project nor their site.

MR. ARGENIO: Let me just say this about that, Mark, and this is only my opinion and then I'm going to turn to Neil, relative to trash, I don't know how many receptacles are appropriate for this type of facility but I will tell you this that if they're operating this facility and they don't have an appropriate amount of receptacles around and there's rubbish blowing around I think the person that's going to be penalized is the operator of the facility because nobody's going to want to go there because it's a dump.

MR. EDSALL: I just want to make sure they understand what we're doing.

MR. SCHLESINGER: We addressed it last week.

MR. ARGENIO: I think he's talking about trash receptacles.

MR. SCHLESINGER: Then the--

MR. ARGENIO: No, the dumpster, we did address that.

MR. SCHLESINGER: I have a question, an operation question on the trash receptacles this is primarily an eat in the car type thing?

MR. SLATER: Right.

MR. SCHLESINGER: From an operation point of view, what do you find that people do, they drive off with their garbage, they get out of the car, look for a receptacle or drive away looking for a receptacle that they can dump into?

MR. SLATER: It's really three things. One, is they get out of the car and walk to the nearest receptacle, a second is we have the receptacle with the chute that they can as they're leaving just drive by and drop it.

MR. SCHLESINGER: At the parking spot?

MR. SLATER: No.

MR. SCHLESINGER: On the way out there's a chute from the window?

MR. SLATER: Right. And third is because the parking lot that area of the parking lot it's our dining room we have always got staff in the, in that area, it's not uncommon for them to literally hand the garbage to a staff member.

MR. ARGENIO: When they hand their tray back?

MR. SLATER: Yeah, we actually don't leave the trays anymore with the cars but it's not uncommon, we have something called a smile tray which goes from car to car, can I get you anything.

MR. ROBERTS: The lot is constantly staffed and monitored as Doug said, we consider that a dining room, there's no inside to the restaurant.

MR. SCHLESINGER: But the dining area where you have the seats there are people that are going to get up and just leave it expecting you to clean up after that.

MR. SLATER: It happens but there's garbage pails on

the patio, we're showing four garbage pails.

MR. ARGENIO: On the whole site plan?

MR. SLATER: Yes.

MR. ARGENIO: That doesn't seem like enough.

MR. SLATER: In Kinston we started out with three and like you mentioned, we don't want it to turn cruddy, we added three more, the layout's a little bit different but again here if we found it was inadequate without them--

MR. ARGENIO: Yeah, you know what I think, in so much as that works up there and you said this is the same but just a bit smaller.

MR. SLATER: The building's smaller.

MR. ARGENIO: How does the quantity of stalls compare?

MR. SLATER: Slightly fewer here.

MR. ARGENIO: You should start out with half a dozen, it would seem to me, we know three's not going to work.

MR. SLATER: Six is fine, that's no problem.

MR. ARGENIO: Strategically located.

MR. SLATER: We'll add two by the remote canopies.

MR. ARGENIO: That's a crap shoot on my behalf.

MR. SCHLESINGER: Where is the chute?

MR. SLATER: The chute is as you're leaving it shows it as a little square actually shows.

MR. SCHLESINGER: The arrow goes up and says proposed.

MR. SLATER: Proposed trash receptacle.

MR. SCHLESINGER: That's the chute you're talking about?

MR. SLATER: Right, it's the same trash receptacle has a different cover.

MR. SCHLESINGER: I have one other question and I remember we asked you this at the last meeting. There are public bathrooms?

MR. SLATER: Yes.

MR. SCHLESINGER: Am I missing them on the plan?

MR. SLATER: Well, they're inside.

MR. ARGENIO: They're indoors, you're not going to see them unless you see a floor plan.

MR. SLATER: The doors actually show on the plan as you're along the canopy side of the building here.

MR. SCHLESINGER: Where the double doors are.

MR. SLATER: Third door is a small mechanical closet.

MR. ARGENIO: I'm not going to belabor this or get into Mark's comments, you need to address them.

MR. EDSALL: Jerry, if I can just one thing I did want to share with the board one aspect which you had asked me to make sure is that this roll into the overall project that this board with the Town of Newburgh work quite hard on to make sure it was one unified site, we forwarded the landscaping plan over to their engineer who was very diligent in taking that plan and using

that as the basis to develop their landscaping so that it fits in as it may be. So at minimum before you pass this on for me to deal with them one last time at the workshop if you can just have the board look at the landscape plan, see if you think the density is reasonable, they did overlay the Hudson Valley Federal Credit Union landscaping so you can see how it fits in.

MR. ARGENIO: Remember when you're looking at it, guys, the shaded images are of trees that do exist today, the bold is the proposed trees. Do you insomuch as the owner does not have a preference on what the finish is on the tower brick or stone, does anybody have any opinion or feedback for the benefit of these folks here, Neil or Howard?

MR. SCHLESINGER: I heard you asked before they said they decided on the brick because it matches Wal-Mart.

MR. SLATER: Wal-Mart and the credit union.

MR. GALLAGHER: Might as well stay with brick.

MR. VAN LEEUWEN: I like the brick idea.

MR. SCHLESINGER: I like the stone idea but I don't mind the idea of it blending in.

MR. ARGENIO: Howard, you're the tie breaker, what's your reference? It's informal but--

MR. BROWN: Stone would fit in there also if they decided to go there cause it wouldn't be--

MR. ARGENIO: You guys lose, Henry and Danny, I agree, I think the stone will break it up, I think there's a lot of brick cause of Wal-Mart and the credit union so if you can do it do that if it doesn't matter to you guys, that would be great.

MR. SLATER: It doesn't matter to us, I'll just have to make sure there's nothing under contract with Wal-Mart.

MR. ARGENIO: If there is, we understand, we don't, I don't think we have the ability in this to absolutely force you to do it, that's why I phrased my question in the fashion that I phrased it, we prefer the stone or the majority would prefer the stone landscaping. Does anybody want to chime in?

MR. VAN LEEUWEN: Landscaping seems to be okay.

MR. ARGENIO: Dan, I notice you're mute tonight.

MR. GALLAGHEN: It's fine, I don't see any problem.

MR. ARGENIO: You guys?

MR. BROWN: No, it's okay.

MR. ARGENIO: Let's talk about the signs briefly because there's not a lot for us to do with this. Mark, hit that please.

MR. EDSALL: Very quickly what I have suggested to the applicants is that--

MR. SLATER: Is that the new one?

MR. EDSALL: Yes, it's tonight's. --that we get a separate sign plan only for purposes that when we send it to the Zoning Board they may have an easier time figuring it out. There's 29 signs on the site now or 29 units whatever you want to call them, it's down from 35 to 29, two are directional clearly.

MR. ARGENIO: May I interrupt you for just a second. Jen, that should be noted for the benefit of the ZBA at that meeting we did cut that down. Go ahead, Mark.

MR. EDSALL: So they went from 29, you knocked two that are clearly directional, you're down to 27. Of the 27, 22 are the menu boards, so that leaves you five, of the five you've got three drive-thru conventional drive-thru signs which are consistent with every other similar establishment in the town and then you've got a building mounted sign and a freestanding sign. From my review, it looks as if all the signs comply in size, I do want to go over it with Jennifer before it goes to the Zoning Board to make sure I'm not missing anything, so we would be sending it over for the 22 menu boards for an interpretation and/or variance and I also asked that the engineer make sure all the square footages are correct on the plan.

MR. ARGENIO: You guys all right with that?

MR. SLATER: Yeah.

MR. EDSALL: But it looks as if it's been resolved down to those 22 for that interpretation and/or variance.

MR. ARGENIO: Dominic, do we need to vote no to get through it?

MR. CORDISCO: You don't need to vote no, you just need to vote to refer it to the board.

MR. VAN LEEUWEN: So moved.

MR. ARGENIO: We refer to zoning for the sign review and interpretation.

MR. SCHLESINGER: Second it.

MR. CORDISCO: As Mark suggested, it would actually behoove the applicant to request not only an interpretation but also a variance at the same time in the alternative.

MR. ARGENIO: If required.

MR. CORDISCO: That's correct. So if the zoning board determines or interprets that it's actually signs they want to be in a position that you're also asking for variances so you can actually go forward.

MR. ARGENIO: Motion has been made by Henry seconded by Neil.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: What else are you folks looking for from us tonight?

MR. SLATER: That's it.

MR. EDSALL: Jerry, was there a discussion on the public hearing at this meeting or the prior meeting?

MR. SLATER: That's something we wanted to bring up tonight.

MR. ARGENIO: That's a good question, Mark.

MR. EDSALL: I don't have a record of it ever being addressed.

MR. CORDISCO: If I may, Mr. Chairman?

MR. ARGENIO: You may, Mr. Cordisco.

MR. CORDISCO: I would suggest that given that there's no requirement that you make that determination now a

public hearing will be required by the ZBA, you can determine based on whatever turnout they have at the ZBA.

MR. VAN LEEUWEN: Why don't we hold off until they come through the ZBA.

MR. CORDISCO: When they come back.

MR. VAN LEEUWEN: Hardly nobody was there, we'll eliminate it, a lot of people are there, we'll have to have it.

MR. CORDISCO: That's consistent with past practice.

MR. ARGENIO: I'm okay with that but I think it's necessary to have a public hearing on this because of the exposure, a lot of activity because I don't think you'll get a lot of activity because there's not a lot of residential and the residential is in the back of Liner Road. I'm sure they're fine folks but they're isolated in the back. So let's them go to ZBA, have their mandatory public hearing. If there's a public outcry about planning board issues and the approval we'll hit it then.

MR. SLATER: May I ask regarding the, but if the ZBA comes back and interprets the menu signs as not being signs then it becomes, it would not require a public hearing, right?

MR. CORDISCO: The Planning Board's public hearing is discretionary so the board has the option of either holding one or waiving it.

MR. ARGENIO: And zoning board.

MR. CORDISCO: Is required.

MR. SLATER: For the interpretation?

MR. CORDISCO: Correct.

MR. ARGENIO: The point is if they have the public hearing there and it's, there's no resistance there's no news compelling you to go to the effort of doing the mailing we're not here to make motion, we're here to conserve motion as best as possible and still do our job. Dominic, anything else?

MR. CORDISCO: No.

MR. ARGENIO: Thank you for coming in. You have been referred to zoning, get ahold of Nicole, get yourself squared away, get over to see those fine folks and we'll get this thing moving.

MASONS_RIDGE_(09-24)

MR. ARGENIO: Masons Ridge multi-family. Application proposes development of the 12.6 acre parcel as an 84 unit multi-family work force housing complex. The plan was reviewed on a concept basis only. Guys, can I have your names for the benefit of the stenographer please?

MR. WOLINSKY: Yes, Larry Wolinsky from law firm of Jacobowitz and Gubits.

MR. REGAN: Larry Regan from Regan Development.

MR. HIGGINS: David Higgins, Lanc and Tully Engineering.

MR. COPPOLA: A. J. Coppola, project architect.

MR. ARGENIO: Okay, tell us what you have for us here tonight.

MR. WOLINSKY: Well, I'll give you first again my name is Larry Wolinsky. This is a project that is a work force housing project, it's the first one under the recently enacted legislation by the Town Board and we believe we have met all the requirements set forth in that local law. I think what I'd like to do is probably have Dave Higgins here give you just a general overview of the project and then we'll take it from that point on.

MR. ARGENIO: This is on Route 32 across from the mulch guy, okay, going out from your house, make a left on 32 north, mulch guy comes up on the right across the street at the foot of Snake Hill in the back.

MR. VAN LEEUWEN: It's in front of you.

MR. ARGENIO: If you're looking at United to the right on towards Snake Hill.

MR. SCHLESINGER: Up by Hank's old place.

MR. ARGENIO: Correct, between Hank's old place and United Rentals. But as you see offset from the highway quite a bit, go ahead, sir.

MR. HIGGINS: Thank you. Essentially, the property's just over 15 acres in size and as we discussed, it's off of State Route 32 actually. What's proposed is a work force housing project which is more in the northwestern portion of the site and also at the same time on a separate parcel because right now, our two parcels comprising the 15 acres, the second parcel would be Masonic Lodge. Both projects are to be served by the shared commercial driveway 25 feet wide off of New York State Route 32 split off into a parking area for the lodge and road would continue up the hill basically provide a loop for the work force housing project. The work force housing project actually consists of a total of 11 buildings, the units and the buildings vary from one, two, three bedroom in size, there's a total of 84 separate units for the work force housing. As part of the project, there are some amenities that go along with the work force housing project, there are, there's a community center here, which would include a meeting room, a library, a kitchen and a computer room and also there are some playground areas located not shown on this map but there's some playground areas that we have located throughout the site. The plans meet both Masonic Lodge and also Masons Ridge meets all the parking requirements of the town as well as all the other zoning requirements of the town, I believe. The road entrance is off as we said New York State Route 32. We would need to obtain highway work permit from New York State DOT. As part of that, John Collins Engineers has actually undertaken a traffic study.

MR. ARGENIO: You know we're going to ask for it.

MR. HIGGINS: Yes, actually, they got a little bit of a late start because they wanted to wait for the schools to start getting peak traffic.

MR. ARGENIO: We need to make sure in the study Phil includes the PUD south of you, you know what I'm referring to, Mr. Wolinsky?

MR. WOLINSKY: Yes.

MR. ARGENIO: Go ahead.

MR. HIGGINS: We have also as part of the project and this has been basically everything has been designed essentially to preliminary subdivision level in accordance with the town's requirements for work force housing ultimately Mr. Wolinsky will get into the referrals to the Town Board, but the zoning code calls for preparation of preliminary plans, so along with that we have actually fully designed the roads, the drainage, we have prepared a storm water pollution prevention plan, an erosion control plan and phasing plan, drainage essentially consists of several storm water facilities, essentially treated storm water for water quality contain it and release it out to this existing stream, the lower portion is going to discharge to the existing ditch along New York State Route 32 at which point it's going to enter the town's drainage system. The project connects to existing municipal facilities as far as water supply and sewer collection. We also prepared in the plans concept landscaping and lighting plans certainly subject to your review and whatever modifications you're looking to fine tune for those. And we have also submitted a long EAF form that outlines all the environmental impacts associated with both the Masons Ridge and Masonic Lodge site.

MR. ARGENIO: For the benefit of the board, their work

force housing is a new law in the town, Dominic, follow me on this in case I screw this up, it's my understanding that we're going to review this tonight and similar not the same but similar to the senior housing regulations we're going to recommend, make a recommendation to the Town Board about the appropriateness of this project and how, and the Town Board's going to vote on it and it's going to come back to us and we're going to continue our typical site plan review. Is that substantially correct?

MR. CORDISCO: That's correct. I would just amplify that the work force housing law was modeled on the senior housing law and in particular in the procedure and that's the procedure to follow. It's expected that this board would be the lead agency under the SEQRA review and as a result no other agency would have a lead agency coordinated review, no other agency can actually make a decision until you resolve SEQRA. And so as a result, the referral at this point to the Town Board if the board is inclined to make it would be for informational purposes only. The Town Board would consider it and if inclined to agree that this might be an appropriate location for work force housing would take an informal vote and then refer it back to this board so that we can continue on with our review having an indication from the Town Board that this is in fact an appropriate location.

MR. ARGENIO: And for the benefit of the members also as I have said before a lot of smart people a lot smarter than me worked very hard on our rezoning of the town over quite a period of time. I was involved in that, supervisor, consultants, et cetera ad nauseum and this area is zoned for work force housing so there will be no discussion of variances. I want to give you guys a couple of technical things very briefly and I'm going to give the abbreviated version of my speech, if the walls in the back are higher than four or five feet what we're looking for typically is something a little

more substantial than an SMU wall, segmental masonry units, the big block walls from LHV, Mark, or whoever, I'm not recommending them, Mark can tell you who it is. If you insist on having the SMU wall there are requirements we're going to impose on you to ensure that these walls have the greatest longevity that we can for the benefit of the project and the town as a whole. That's my canned speech. That's pretty good, wasn't it, Mark?

MR. EDSALL: You're getting better every time you tell us.

MR. ARGENIO: It's getting smaller and smaller too which is good, don't you think? So I'm glad to see the clubhouse is big, Danny, that's something that Danny tends to focus on, if you guys still live in a condo, you used to live in a condo and it was an issue. So it seems to me that it is fairly sizable. Are these typically what I call these condo units as a layman, if I looked at it would I say that's a condo?

MR. WOLINSKY: I believe these are of a townhouse style.

MR. COPPOLA: Just under the building code there's a townhouse is a phrase under the building code same as a single family house so it's treated the same as a single family house under the building code.

MR. WOLINSKY: But they're actually going to be rentals, these will be rental townhouses that are rented at rents that fall within certain ranges of affordability so that folks can--

MR. ARGENIO: Subsidized?

MR. WOLINSKY: There's, we don't use the word subsidized, we use the word, there's participation, there's funding and investment participation by the

Division of Housing and Community Renewal or the Housing Financing Agency in New York State that's part of the financing package that allows the work force made available.

MR. ARGENIO: Your name?

MR. REGAN: Larry Regan. I'm part of the project team modeling this, the finances side, the individual units, the people living in the units will not be subsidized in the form of rent subsidized per individual or families or couples moving in. The funding that comes in for the deal comes in to the project, the overall development costs of the project are written down with loans and funding sources to make the costs lower to develop.

MR. ARGENIO: To mitigate the capital on the front end because it's a super duper important distinction, I'm glad you stood up and made that.

MR. REGAN: What that does is reduces the overall debt on the project which allows the rents.

MR. ARGENIO: To be rented cheap.

MR. REGAN: It's not Section 8.

MR. ARGENIO: Understood.

MR. CORDISCO: That's what I was about to ask.

MR. ARGENIO: And I was going to ask it too.

MR. SCHLESINGER: I'm not sure we're talking about the same thing. Do the people, are the proposed renters do they have to meet certain qualifications?

MR. REGAN: Yes, they do, the renters, there's a cap on depending on the size of the family or the individual

couples or the single person living in each individual one, two or three bedroom apartment there will be a cap on how much income they have, it's working, it's for work force housing.

MR. SCHLESINGER: If they earn over a certain amount they don't qualify?

MR. REGAN: Correct, your local law that your Town Board passed with your input capped the income levels at 130 percent of Orange County median, that's quite high. Usually the funding sources we use which are state funding sources cap income at 80 to 90 percent and there's different levels of income depending on what funding sources we're going to apply for, that some of the funding sources we can apply for allow up to 80 percent of income, up to 60 percent of income. But just to give you an idea, a family of four making 60 percent of income in Orange County can probably make up to about \$55,000 so and then we're looking to target also families that make up to 80 to 90 so that we can get to the higher level of the work force housing people living in New Windsor now who are looking at funding sources that would allow us to target families up to about 80,000, so that's the definition really we're going by work force.

MR. ARGENIO: Okay, make sure too you have appropriately addressed your refuse disposal issue, of late that's become quite a hot button issue around this place based on feedback we're getting from other members of our community. Would it be unreasonable to request that the esteemed architect Mr. Coppola put together some sort of color rendering so we know?

MR. WOLINSKY: Not all at, we can do that.

MR. COPPOLA: Sure.

MR. ARGENIO: Not going to--oh, Mark, you're a man

after my own heart. You have addressed the SMU issue.

MR. EDSALL: And the dumpster and recycling issue.

MR. ARGENIO: I'm not going to get into all of Mark's technical stuff because it's early and he's very informative and he's very concise with this application typically as he is. Neil, go ahead.

MR. SCHLESINGER: Hate to use the word but do you plan on using any sort of phasing as far as the operation is concerned?

MR. REGAN: One shot.

MR. SCHLESINGER: One shot, over, done, that's it?

MR. REGAN: It's one project that's built out with one development source.

MR. SCHLESINGER: Good.

MR. ARGENIO: Remember guys we're going to see this a couple more times certainly we will. What else do you guys have to offer us on this?

MR. WOLINSKY: Well, just the only thing that may not have been mentioned is that we're concurrently and it's the next item on the agenda moving forward we'll get to that but it's shown on the plans.

MR. ARGENIO: I understand. Have we done a county referral yet Mark?

MR. CORDISCO: I don't believe so.

MR. EDSALL: No, can we just go over some of the procedural things?

MR. ARGENIO: Go ahead.

MR. EDSALL: Again, it's a learning curve because this is the first application so we did work out some zoning issues so that in fact they have modified and adjusted and twisted and turned and the plan now is in compliance to the best I can see with all the zoning requirements. So an anticipated trip to the ZBA was averted by dealing with the code as it's written. But the code does have one determination where it leaves the board some flexibility, it says that front yards have to be 75 feet or 50 feet where the neighborhood and site conditions warrant the same in your sole discretion. I think one of the criteria is do you really front on a state highway, best as you can see the housing component is removed because it accesses off the shared commercial access when it really doesn't front on the highway, so a determination the board would need to reach and I suggest that you may want to just agree with it tonight so that they can move forward with that understanding is that 50 works because they really aren't against the highway. So that's one that you have to decide and you have enough information in my mind to say they don't front on the highway so therefore the uniform 50 foot setback around the entirety is acceptable.

MR. ARGENIO: Does anybody have any questions about that or take exception to that?

MR. VAN LEEUWEN: I have one question, make sure that the retaining, the water retaining area, the storm water okay is big enough to handle it because an awful lot of water comes down that hill.

MR. ARGENIO: Any comments on that, Danny?

MR. GALLAGHER: No.

MR. VAN LEEUWEN: No.

MR. ARGENIO: Yeah, I agree with that too and what's critically important I think in my mind is there are families here so you're going to need to protect those in the event of a failure you have a catastrophic issue because you have a downhill grading towards Arkel Motors and 32 so they need to be constructed correctly and be protected so nobody drowns.

MR. EDSALL: Mr. Chairman, if you can just I think it's important just asking our counsel if it needs to be a resolution, I think you need to vote on that.

MR. ARGENIO: I'll accept a motion that we agree that the 75 foot front yard setback is appropriate.

MR. EDSALL: That 75 is not required, it should be the uniform 50.

MR. ARGENIO: That 75 feet is not required and the 50 is appropriate.

MR. SCHLESINGER: Motion made.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that we agree that the 50 foot front yard setback is appropriate. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. EDSALL: From a procedural standpoint, the way the code was written it says that you need to do three things once you have a complete application that you

can pass judgment on, I guess is the way you could put it. Obviously, you have to make a referral back to the Town Board with a determination as to whether or not you believe this is an appropriate location but as well the code says that you should submit as Mr. Cordisco said lead agency coordination letter on the premise that the town has decided that you should be lead agency and last but not least it asked that you do a joint referral to the Orange County Planning Department. So I would need, you're okay I guess Dom and I both need cause he would have to do the referral back to the Town Board and I would take care of the other two items to take those procedural steps if you feel that's appropriate.

MR. ARGENIO: First thing is the recommendation to the Town Board, does anybody have a comment on that? Danny, Henry? You guys think this is appropriate?

MR. CORDISCO: The way we have addressed that in the past is that the board has authorized me to send a letter.

MR. ARGENIO: I got it. If anybody, unless anybody disagrees, I'll accept a motion we authorize Dominic to draft a letter that in essence says that this board recommends this as an appropriate location for this application.

MR. GALLAGHER: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we send the positive recommendation to the Town Board on this application. Roll call.

ROLL CALL

MR. SCHLESINGER AYE

MR. BROWN AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. VAN LEEUWEN: You've got to make sure you have enough room for your water, I've seen water come down that street a foot and a half high, causes accident.

MR. ARGENIO: Lead agency coordination letter?

MR. EDSALL: Motion to authorize me to issue a letter of your intent to declare lead agency.

MR. ARGENIO: I will accept a motion.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we circulate that lead agency coordination letter for this application. Roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. BROWN AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. EDSALL: Per the code, I will take care of the County Planning Department. I was just going to indicate that I, my review, the introduction says I did a concept review but because this was a new code for the only way for me to figure out if it met the code was to really take the time to review it so I have done much more than a concept review, I've gone through sheet by sheet, provided them with comments I, believe

that they could move forward while they're working to the Town Board level which is a month from now and get these comments addressed and with the board's permission if they have any questions or would like to get together to go through all the sheets we could assist them in moving on to progress during the one month.

MR. WOLINSKY: We appreciate that.

MR. ARGENIO: One comment, Mr. Wolinsky, and this is just a thought, it's a subjective thought and I don't want to beat this to death, just want to make one suggestion, this is a relatively remote area and it would seem to me that there will be people here with families, you ought to give a little bit of consideration to the recreation area and maybe just having a tennis court may be appropriate. I'm not telling you what's appropriate, maybe something a little bit more than that, maybe in order for this site you have room to do it, not a ton of room but you have room to do something so you might want to do that.

MR. WOLINSKY: We'll make a good faith effort to look at that and report back to you.

MR. ARGENIO: Okay, guys, thank you for coming in. Have a good night.

MASONIC_LODGE_(09-27)

MR. ARGENIO: Masonic Lodge, same guys, oh my goodness, how did that happen? This is the now the next one is Masonic Lodge as well one of these is a site plan or subdivision?

Larry Wolinsky, Esq. and Mr. Dave Higgins appeared before the board for this proposal.

MR. EDSALL: The property already exists as two lots but they needed to create the shared commercial accessway to get zoning compliance.

MR. ARGENIO: So what's this, the only thing I have on this Mark is a SWPPP from your end of it, what's this actually, oh, no, this is the SWPPP, I'm sorry.

MR. EDSALL: The SWPPP comments were attached to the first site plan. The second comments deal only with the Masonic Lodge site plan, I would request that the next time they make an application keep the two site plans absolutely separate plans and we'll look at the SWPPP as a combined element because we're looking at SEQRA as a combined item but the site plans should stand alone in their approval.

MR. ARGENIO: Well, relative to the SWPPP I'm not going to beat that to death but we're not going to hit that because technically from an engineering standpoint it's a very simple thing, it's right or it's not. And that's the end of that discussion. So we're not going to tell you to build a level spreader, a pond or a velocity dissipater, get it right, that's the end of it. Let's talk about the membership lodge.

MR. WOLINSKY: Mr. Chairman, just let me give you a little bit of background. Mark, as Mark just pointed out, these are two pre-existing lots, one of which the prior application is on and one in which this current

application is on. We were acquiring this lot from the Masonic folks and as part of our deal with the Masonic folks to acquire that we have agreed to process this application concurrently and we'll also as part of it correct me if I'm wrong, Larry, as part of the construction of this we'll be constructing this structure.

MR. ARGENIO: So they squeezed you to walk them through this and probably for other things too and that's what you're doing?

MR. WOLINSKY: Yeah, so that's why it's altogether and for SEQRA purposes, I think we're all going to consider it, the impacts, cumulative impacts and maybe can you just real quickly just go over what this is and what they're doing?

MR. HIGGINS: Well, basically, this is the Masonics Lodge, we have the parking as we mentioned before the parking requirements have all been met, I don't have the actual number but I know they're shown on the actual plan. I believe the rear portion here this is a pad site that has to be constructed for future pavilion, I think.

MR. ARGENIO: Hold on a second, please. Go ahead.

MR. HIGGINS: Basically, what we have here there's a new Masonic Lodge again that would be for meetings and gatherings, things of that nature. The parking facilities in front again meet all of the town's requirements, the rear section here this is a, it's a macadam pad site which the applicant is I believe under contractual obligations to provide that would be for future pavilion.

MR. WOLINSKY: Outdoor activities that the masons would engage in.

MR. HIGGINS: Storm drainage in the front outside of the site providing water quality treatment and ultimately a discharge to the roadside ditch on Route 32 and again we would need New York State DOT approval for the road entrance as well as for the drainage.

MR. ARGENIO: Mark, just one thing, I don't understand your comment number 6 as per the code this should be a joint referral with regard to the Town Board review of the work force housing.

MR. EDSALL: No, that's a typo, that's why you don't understand it.

MR. ARGENIO: No problem.

MR. EDSALL: It's the referral's correct but it duplicated the joint part is not right.

MR. ARGENIO: Is that left-hand light there a utility easement to get down for water and sewer, this business here?

MR. HIGGINS: I believe that's an existing dirt drive it's labeled as.

MR. WOLINSKY: It's an existing dirt access.

MR. VAN LEEUWEN: That goes to the house and barn in the back.

MR. EDSALL: That's an existing private road that was the zoning issue we had to work out. Originally, they were relocating the driveways to the common access for these two projects which is apples and oranges, you can't mix private road with a shared commercial accessway.

MR. ARGENIO: Is there a problem with the slope of the road?

MR. EDSALL: No, their road slope is fine, just a detail just came to mind we asked and they have provided a, almost like the Palisades Park Commission style wooden rail guiderail to isolate the two private roads from their driveway.

MR. ARGENIO: Let me just make a comment. What's your name, sir?

MR. HIGGINS: Dave Higgins.

MR. ARGENIO: On the parking lot for Masonic, is there curb there?

MR. HIGGINS: That I am not sure.

MR. ARGENIO: My comment is this, there's minimal drainage there, the contours are steep, you have water sheathing off that lot, you could very well have an erosion problem there, I don't know, the drainage of the area, Henry seems to be very leery of it and understand--

MR. VAN LEEUWEN: I used to own the property right next door.

MR. ARGENIO: But that's steep, there's a bit going on there, you want to take a look maybe bringing at least lower part of the parking lot getting that water underground and dumping it into that retention area or the forebay whatever's necessary.

MR. HIGGINS: Based on the contours it looks like it's curbed.

MR. ARGENIO: Negative, negative, negative, here, right here coming off there down into there. I think there's a need to catch this, put it underground and dump it in your forebay or I don't know whichever one, I'm not

telling you to do that but I'm telling you you should take a look cause I see a horror show there.

MR. VAN LEEUWEN: I have seen it as high as a foot and a half, you can check with the police department, they'll tell you.

MR. ARGENIO: How close are you actually, the steep contours going back to the Masonic, the work force housing, how close are you to the steep contours, a cliff as it were?

MR. HIGGINS: Up in here? Where?

MR. ARGENIO: Where does the mountain take off and go up in the air, how close?

MR. HIGGINS: Well, obviously--

MR. VAN LEEUWEN: There's a 150 foot section that Central Hudson owns.

MR. ARGENIO: Casey Manns owns it, he bought all those lots, he bought that whole easement.

MR. VAN LEEUWEN: There's another 150 feet behind, that's where the hill starts up.

MR. ARGENIO: I'm going to go back to the previous application, I shouldn't do that, I would scold anybody else for doing it, let's stay focused. Who else has a comment here?

MR. EDSALL: Mr. Chairman, just they have mentioned the asphalt pad for the future pavilion possibly to save the Masonic Lodge the grief of an amendment application, if the board thinks it's appropriate you could ask them to just show that as future phase 2 pavilion if that in fact is what they plan on doing, it would save them a return trip and just include it now.

MR. WOLINSKY: I'll have to get that, that's a good question.

MR. ARGENIO: That box on the drawing?

MR. WOLINSKY: This macadam pad here, I don't really know myself what their specific intentions are, whether they're putting some kind of a, they want to leave it there and put a tent, a temporary tent over it or whatever.

MR. EDSALL: If in fact it's a structure which we have had some applicants that put small pavilions so they could have inside and outside activity, you might as well get it now.

MR. ARGENIO: He's right.

MR. WOLINSKY: Yeah, no, he's right.

MR. ARGENIO: Anybody sees fit, I'll accept a motion we circulate for lead agency.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board circulate for the lead agency coordination letter for the Masonic Lodge site plan.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: What else? You guys have anything else?

MR. WOLINSKY: Mr. Chairman, I hate to drift back to the first one as well but before we see you next time we'll be working on our environmental supplemental information, we'll obviously be doing traffic as we mentioned and storm water in big time as has been pointed out. Are there any other, and we have some archeological stuff we have done, is there any other areas of concern you want us to address either for either application?

MR. ARGENIO: Guys?

MR. VAN LEEUWEN: What I'd like to see, I'd like to see, let's put this, this is a separate application, it should be separated from the main application.

MR. WOLINSKY: We'll do that.

MR. VAN LEEUWEN: Don't show any of the houses on it, show what you got there and show this, okay, on one map but don't show the houses on it cause it's very confusing.

MR. WOLINSKY: Understood.

MR. ARGENIO: To my right?

MR. GALLAGHER: No, I have nothing.

MR. ARGENIO: I don't want to be devious but I just want to tell you where I'm going with my question asked before, I've seen personally because I'm local, my office happens to be right down the road from here, slides on Snake Hill, rock slides, so I don't know how close you are to top, to the mountains, Snake Hill. Thank you for coming in.

September 9, 2009

54

MR. VAN LEEUWEN: You ought to put a fence so the kids can't go up Snake Hill.

COVINGTON_ESTATES_SUBDIVISION_(08-11)

Mr. David Weinberg appeared before the board for this proposal.

MR. ARGENIO: Covington Estates subdivision. For the benefit of the members, this is a pretty, pretty simple thing, we have seen this 100 times, everybody knows the economic times we're in, I think everybody knows where this is across from Neil's shopping mall or his strip center on 300. This application has been through, Mark, stay with me on this in case I misstep, it's been through a couple different owners, this is a re-up, okay, they didn't develop it for financial reasons, there's issues out there. Neil, you've spoken of them, we all know that there's problems in the world right, Dominic, referring to a specific--

MR. CORDISCO: So I've heard.

MR. EDSALL: We have received letters to that regard.

MR. ARGENIO: Right, you get it now.

MR. CORDISCO: I got it the first time.

MR. ARGENIO: So it's been around not too long but it's been around a bit, they have done due diligence, we have reviewed it, reviewed it and reviewed it. Their approval is about to expire so they want to get a reapproval, nothing has changed on the plans. Mark has checked it, Mark has verified it. In addition to that there's two things here, one is the site plan approval which is about to expire. Second is subdivision approval, they don't run concurrently, one runs offset from the other by several months. I don't know why, I can't tell you, they received one approval before the other. What we're here for tonight is a re-up of this approval but what I'd like to do is re-up up both of them so they run concurrently so if we have to address

this again we can address both at the same time so you'd be set on both issues in essence. Plans haven't changed, same project, no more, no less. Anybody have any questions?

MR. GALLAGHER: Is this the first time that we've given them an extension?

MR. CORDISCO: This would be the second time.

MR. GALLAGHER: Is this their last time?

MR. ARGENIO: Good question, what's the economy going to do?

MR. CORDISCO: It really depends on whether or not there's any change in circumstances such as zoning or any other change in circumstances regarding the site or the plans. They, technically, the approvals themselves have a maximum days attached to it but what's being asked for here is actually a reapproval, so they'd start the clock, it's consistent with what the board has done previously, that's what they're asking for here. The site plan application is up for expiration now, the subdivision application would be, it's the other way around, excuse me, it's the subdivision is up now, the site plan is up in February, 2010, perhaps just to bring them in line if the board is inclined you could reapprove both of them now so they would both run from now through the next year.

MR. ARGENIO: Just simpler, Danny, reset them both.

MR. VAN LEEUWEN: I make a motion that we approve both of them at the same time for one year.

MR. CORDISCO: So we don't see Mr. Weinberg in February.

MR. EDSALL: No, he's gaining. Just so that the record

reflects both applications the site plan I believe is application 01-41, the subdivision is 08-11, you're reapproving them, the resolution will be prepared and signed with the same conditions as the prior approval so effectively you're just adding 360 days.

MR. ARGENIO: And the owner has acknowledged that he's still okay with those conditions?

MR. EDSALL: Subject to the same agreements that have been reached with the Town Board relative to district extensions so nothing's changed except for the clock is restarting.

MR. CORDISCO: Speaking of acknowledges, Mr. Weinberg has recently written to the town attorney acknowledging that they have an ongoing obligation under their developer's agreement with the Town Board.

MR. ARGENIO: That's it?

MR. WEINBERG: Not much else going on.

MR. VAN LEEUWEN: I made the motion.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we renew/re-up the site plan approval and subdivision approval for the Covington Estates. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

WINDSOR_GATE_PLAZA_SITE_PLAN_(07-09)

MR. EDSALL: Let the minutes reflect that the next item is Windsor Gate Plaza who are asking for reapproval. They canceled for tonight's meeting.

MR. ARGENIO: The record effectively reflects that.

RAY'S_TRANSPORTATION_SITE_PLAN_(09-02)

Stewart Rosenwasser, Esq. appeared before the board for this proposal.

MR. ARGENIO: Ray's Transportation, Argenio Drive off Ruscetti Road. This application proposes change in use to convert former lumber yard to railroad tie product transfer station. Plan was previously reviewed at the 25 February, 2009 and 25 March, 2009 planning board meetings. This one you guys remember this is down next to me, this is the one with the railroad ties where the board I guess kind of mutually had pretty much a concern about the creosote and runoff associated with the creosote into the ground water?

MR. VAN LEEUWEN: I think, why do you think they brought the heavy hitter here?

MR. ROSENWASSER: I was looking for you.

MR. ARGENIO: Counselor Rosenwasser is certainly here, up here going to address this and the other issue was the sale of these products. There's another story there too isn't there? We won't get into that. The sale of the railroad ties in New York State and we sent a letter to DEC asking about one thing and they answered something else but long and short of it is the applicant is on the record, Mr. Rosenwasser, if I might speak quickly, the applicant is on the record that none of the sales of the creosote railroad, creosote treated railroad ties occur in New York State. This sale occurs out of state and they're no more than a transfer here in New York state?

MR. ROSENWASSER: That's correct, yeah, and just so you know since we have been here we have not only had a couple of work sessions we did have a quite a large sit-down up at DEC involving not only this existing site, some issues involving that but we also did

address the law and I think the consensus was that it needs a little refining both in terms of regulations and some definitional additions to the law, they passed a law because they wanted to get it done.

MR. ARGENIO: For the, so the business--

MR. ROSENWASSER: Yes, the one that became effective that basically precluded the manufacturer, use within the state correct but there's a need for what Ray does, Mr. Stackhouse does in terms of the ties that are disposed of in the State of New York that really wasn't addressed so DEC has taken the position now with us number one they consider his operation to be very green friendly and they really embrace what he's doing in terms of its environmental significance. But beyond that, they're not in a position to say talk about all day where the sale occurs, what the sale involves, but they pretty much are comfortable with what he's doing, there's nothing to indicate presently on the law that this constitutes a violation of that law.

MR. ARGENIO: Again, Mr. Rosenwasser, last time you were here I said we're not focused on that.

MR. ROSENWASSER: But it got a referral from Mr. Cordisco, he sent it up appropriately because that law does have to be addressed, it is on the books.

MR. CORDISCO: It was just written so broadly it seemed to I think actually the language in the statute was prohibiting the use, sale or manufacturer of creosote products but we did receive a very, we received an opinion from DEC when we asked them the question as whether or not this is consistent and it seemed to be consistent as far as DEC's concerned and since that's DEC statute that we're dealing with here it was appropriate for them to interpret it and it may seem to have been interpreted that this activity is not prohibited under the statute.

MR. ARGENIO: Let's move on.

MR. ROSENWASSER: The other was the storm water issue was the big issue and I will let Chris go ahead and address that.

MR. ARGENIO: What's your name?

MR. VIEBROCK: Chris Viebrock with the Chazen Companies, we met with Mark at the work session basically told Mark okay, we're now going to put a building up, trucks are coming in the building, unloading inside the building, storing inside the building, nothing will be outside that none of the existing railroad ties, the only thing that will be outside are the metal fasteners which we now located up in this area up to the north and the only other issue we were addressing is this building that's going to be on top of the existing storm water basin designed as a filtration basin. To address that, we're going to propose a storm water management basin in the corner of the property here to try to prevent, I know there's a huge concern on the well field, the town's well field to take all the drainage now and get it to the railroad.

MR. ARGENIO: It's a good place for it. Couple of things, the building, does it have to be sprinklered? Any issue with that? Did you check on that?

MR. EDSALL: The fire inspector reviewed the plan with us in the Town Hall here and they speaking with Mr. Bedetti he as I understood it wasn't concerned given the fact that it was consistent with the other structures, open accessible, there was plenty of open access for the vehicles, fire vehicles to get to the new building so I can't tell you that he's written his response but--

MR. ARGENIO: Mark, I misspoke and I apologize for that, I do have here a note that says review of the above referenced site plan has been conducted and was approved. Is that the old site plan?

MS. JULIAN: That's the March.

MR. ARGENIO: That's the old site plan, okay, go ahead.

MR. EDSALL: Notwithstanding, I do anticipate that he will look favorably on it given our discussions.

MR. VAN LEEUWEN: In other words, all the railroad ties are going to be in the building?

MR. ROSENWASSER: Yes. The way to deal with the storm water runoff is to eliminate it cause that was an issue I think that wouldn't have gone on and he wants to move on it, a little more of an investment but it addresses that issue.

MR. ARGENIO: We're only talking about wood railroad ties on this site treated with creosote and those railroad ties will be stored indoors at all times?

MR. ROSENWASSER: Correct.

MR. ARGENIO: Does the loading and unloading occur indoors?

MR. ROSENWASSER: Indoors, that's why they configured the building height wise and size wise so it can be done inside.

MR. VIEBROCK: This building will be an open air building.

MR. ARGENIO: You guys have an offset problem with the property line in the back?

MR. VIEBROCK: We have 42 feet we have cause it's one-to-one.

MR. ARGENIO: Does it work?

MR. VIEBROCK: Forty-two feet works.

MR. STACKHOUSE: The building is the, Ray Stackhouse, Ray's Transportation, the building is proposed at 40 feet, the setback is 42 feet.

MR. ARGENIO: The setback requirement is?

MR. STACKHOUSE: One foot.

MR. ARGENIO: Setback requirement is 42 feet?

MR. VIEBROCK: Minimum setback is 20 foot rear yard setback, the building's 42 feet off of that rear yard.

MR. ARGENIO: So you're two foot further than you need to be?

MR. STACKHOUSE: Correct.

MR. VAN LEEUWEN: How high is the building going to be?

MR. VIEBROCK: Twenty-two feet, building's proposed to be 40 feet high.

MR. STACKHOUSE: At the peak.

MR. VIEBROCK: The code--

MR. VAN LEEUWEN: Does it meet the code? I thought 38 was the maximum.

MR. VIEBROCK: Maximum building height is 12 inches per foot to the nearest lot line.

MR. ARGENIO: Mark, lead agency?

MR. EDSALL: I checked to see, I think we might of crossed that bridge.

MR. CORDISCO: We previously circulated.

MR. ROSENWASSER: Yes, you did that at the first.

MR. CORDISCO: Yeah, and we actually invited DEC comments regarding permit jurisdiction, I don't believe we have received a response, time for them to respond has long since passed.

MR. VAN LEEUWEN: What's the Town Board's feeling about this?

MR. ARGENIO: I don't know that they can speak to that, I don't know that they know.

MR. ROSENWASSER: What's the Town Board's?

MR. VAN LEEUWEN: I know at one time they didn't like it.

MR. ROSENWASSER: Well but again that was because of the proximity to the wells and the runoff, storm water issue was I think the issue if I'm not misspeaking.

MR. VAN LEEUWEN: Our supervisor's right here too.

SUPERVISOR GREEN: Our concern, Hank, was with the runoff from the creosote and that's addressed, we have talked about this several times.

MR. VAN LEEUWEN: So that satisfies me.

MR. ARGENIO: We annunciated that the Town Board agreed. If it's inside that just makes all that go away, it automatically goes away. Parking count

obviously works. Oh, I know what I wanted to mention for the benefit of the members, public hearing is discretionary on this application, and I will tell you that as I announced at our first meeting, I am the minority shareholder next door in those companies and I think in essence my group is really the only neighbor there and I happen to be here tonight so--

MR. VAN LEEUWEN: Well, you've got what's his name on the other side there behind it.

MR. VIEBROCK: Talking about this one?

MR. ARGENIO: There's no houses there.

MR. VAN LEEUWEN: I know but you've got--

MR. ARGENIO: The Town of New Windsor on one side and--

MR. STACKHOUSE: CSX is on the other.

MR. ARGENIO: The Argenio Group is on the other side and I'm here tonight so I certainly can consider this my due notice I think.

MR. VAN LEEUWEN: Make a motion that we waive the public hearing.

MR. ROSENWASSER: For the record because you're an impacted adjacent property owner and you're also here as the Chairman of the Planning Board with a potential vote, we'd waive any potential conflict, we wouldn't ask you to recuse yourself, we're sure you can make a fair judgment.

MR. ARGENIO: If I thought even remotely that I couldn't be objective, I'd bow out.

MR. ROSENWASSER: I didn't even want to deal with that, just wanted to put that on the record.

MR. ARGENIO: Appreciate the compliment. And I will accept it as it's offered. But when there's something going on in the area we have been there a long time and if I bow out of it I'm doing the town a disservice. I know the drainage patterns, I know when Ray goes to put the building up he's going to be under water and he's going to say to me what do I have to do here and I'm going to say Ray, let me tell you what's been going on here for 25 years.

MR. ROSENWASSER: We are very confident you're appropriate for this.

MR. SCHLESINGER: I think this was relevant to your last meeting just to go over the process of the way the business operates you bring in the railroad ties, you store them, put them on a truck.

MR. ROSENWASSER: Sorts them, he bands them, the ones that are inappropriate he removes from the site, they go to cogenerations plant for appropriate disposal and he sells them to out-of-state users.

MR. SCHLESINGER: Any time these are loaded on trucks and the trucks stay for a period of time?

MR. STACKHOUSE: No, the trucks are basically--

MR. SCHLESINGER: What I'm trying to get out I want to know whether we're subjecting ourselves to the creosote being on a truck and being exposed.

MR. ARGENIO: In my mind that storage would need to be indoors, rain or shine pre-loaded. Truck parking area here and there's a building right there that should be undercover also. No problem, counselor in my mind the record is clear, wood products that have creosote on them are indoors whether they're on a truck, whether they're on a forklift they're indoors.

MR. CORDISCO: I would--

MR. ARGENIO: Other than the time they drive down Argenio Road, pull in, the truck can stage outside the bay door, take them off, put them inside.

MR. CORDISCO: I would suggest that this be a condition of this board's approval and would say further that a note to that effect would be added to the final site plan so that if there were issues, not that there would be but if there were issues in the future then it would be in the building inspector's hands.

MR. EDSALL: Note 3 just see if that reads okay if you want it expanded, this is a perfect time.

MR. VIEBROCK: Want me to read it?

MR. EDSALL: Processed and storing.

MR. ARGENIO: I'm sure Mr. Rosenwasser could craft us six paragraphs.

MR. ROSENWASSER: If you're willing to pay for it I can draft you 10.

MR. ARGENIO: I know Dominic very well, thank you, he can review it. Ray, you agree to that, yes?

MR. STACKHOUSE: Yes.

MR. ARGENIO: The last question I have Dominic this is to you. Is it necessary for this to go back to county because the last plan that went to county did not have the building on it?

MR. CORDISCO: It--

MR. ARGENIO: Now, it was local determination which

gives us latitude and flexibility if they came back with 13 comments I think it would be a different position.

MR. CORDISCO: Well, you know the old adage one attorney two opinions, three attorneys you've got multiple opinions on this, it's, I'm of two minds on this, the cases suggest that any material change to plans should be re-sent to the County Planning Department.

MR. ARGENIO: I don't think this is a material change unless somebody here tells me I'm wrong.

MR. CORDISCO: This is an improvement to the plans because it mitigates a potential environmental impact and as such, I don't see particularly the need to have it go back to the county.

MR. ROSENWASSER: Specifically addresses the comment that at least in part of the comment that we did get from county with regard to the storm water issue.

MR. EDSALL: I don't think the county dealt with the creosote issue so they must of had confidence in how you were dealing with it so you have solved the problem.

MR. ARGENIO: I've got everybody buffaloed tonight. Mark, no SWPPP?

MR. EDSALL: No, they removed the issue.

MR. ARGENIO: You're moving from where you are now to here?

MR. STACKHOUSE: Correct.

MR. ARGENIO: There's no, I understand that there's some violations issued by the town at the site you're

at now so you being here should make seems to me most of that a non-issue.

MR. STACKHOUSE: Correct.

MR. EDSALL: Yeah, it may help the building department and it may provide the code enforcement people an opportunity to defer the activity to the town court if they have to.

MR. ARGENIO: What do you mean the town court?

MR. EDSALL: Because the violation has a date when it's callable before the court and that date is pushing closer, I understand from code enforcement it may be advantageous if they're telling us that they're moving the railroad tie operation wholly from Walsh to this site and that there's a pending approval.

MR. ARGENIO: What else is going on there?

MR. EDSALL: There's some concrete crushing operation I believe.

MR. STACKHOUSE: Crushed concrete railroad ties, we have a DEC approval, I forget terminology that we got from DEC to recycle the concrete ties.

MR. EDSALL: So if you follow me we're taking the creosote issue, removing that issue in its entirety to this site, this site has a pending approval, if they're committed to say that within so many days and they can pick the time of when they have approval from this board for the new site they could mobilize this transition.

MR. ROSENWASSER: We've got to get the building up.

MR. EDSALL: Build that into the timeframe. What we can do is have code enforcement say we have resolved

the issue by having them occupy this new site then it narrows our SWPPP compliance which is a whole different ball game of crushed concrete that DEC very well may have an active permit on versus the DEC so the issue, so we can fall back.

MR. ARGENIO: I thought and I'm not fully informed on it but what I understand is that and again I don't want to, the impression I'm under is that the town, the town as a whole, Town Board, the town has a problem now because the Town Board has issued or the code enforcement on behalf of the Town of New Windsor has issued a violation to the Walsh Road site because of permitting issues either with the planning board or with the DEC or some--

MR. EDSALL: No, the issue was the violation was issued for noncompliance with the town's storm water regulations.

MR. ARGENIO: So we don't have a SWPPP on site for that location?

MR. EDSALL: That's right. DEC did apply I would say significant pressure to the town to deal with it, deal with it both from a, to deal with it from a site plan compliance and storm water compliance. What I'm suggesting is that if we can get on the record something indicating that in fact this relocation of operations will occur within a time prescribed even by the applicant and you concur with it.

MR. ARGENIO: I don't care what it is he wants to move faster than anybody.

MR. EDSALL: Bottom line is we can, then I can take the minutes, craft a letter to code enforcement to the court and say we suggest this be tabled because we have resolved this whole issue and we have to re-evaluate.

MR. ARGENIO: It's a court thing the appearance but that's not what I'm hearing unless I'm incorrect, somebody, Dominic hear me on this, please, somebody correct me if I'm wrong. What I'm hearing is that Ray you correct me if I'm wrong please is that the handling whatever you do with the creosote treated railroad ties is going to happen on Argenio Road but there's still going to be industrial activities occurring on Walsh Road for which there's no--

MR. EDSALL: Let's deal with one issue at a time. My issue being let's break them into two issues because the storm water issues for the railroad tissue is a lot more complicated, a lot more difficult to deal with, they're making that go away with your application that's pending so I think we should.

MR. ARGENIO: I'm thinking we can make the whole thing go away with this application.

MR. EDSALL: I'm suggesting this will solve one problem, the bigger problem then we have to deal with the concrete crushing operation from both the site plan and storm water basis, we may find that once you remove the railroad ties creosote ties that the concrete railroad ties don't pose an issue that will come to a conclusion not tonight believe me after the fact. From a site plan issue, you may want to discuss that tonight whether or not you care to get some type of plan because I don't believe that site has a site plan approval for the operation.

MR. ARGENIO: This is a difficult spot.

MR. EDSALL: But I suggest if we can make progress on the railroad ties with the creosote let's get that out of the way.

MR. ARGENIO: I think the creosote is put to bed.

MR. EDSALL: But it's not to the extent that code enforcement people who work for Jennifer have asked me try to pin this down with a timeframe so I can deal with the court.

MR. ARGENIO: But the thing I don't understand and again let me say this again maybe I'm not being clear enough, you're divorcing the two different types of railroad ties issues.

MR. EDSALL: Purposefully.

MR. ARGENIO: Seems to me that once the creosote ties come up to the proposed area that's done, that's a done issue.

MR. EDSALL: But the violations.

MR. ARGENIO: But the problem was--

MR. EDSALL: The violation still stands. I would like if they can say 180 days picking a number by the way not trying to put words in your mouth, 180 days from today you stamp the plans, there will be no more creosote sites on Walsh Road or if they think 120 days.

MR. ARGENIO: Mark, my point is he's still handling the concrete railroad ties, packaging them and shipping them.

MR. EDSALL: But we can tell the court that the primary issue has been resolved, that now we have to go back and re-evaluate the whole violation cause concrete ties are not the same and we have to ask for--

MR. ROSENWASSER: Just impose any of the same concerns that would be involved in evaluating a storm water plan.

MR. ARGENIO: Mr. Rosenwasser, the only issue as you

just said a much simpler issue of a storm water, a SWPPP, whatever else.

MR. EDSALL: So second half of my suggestion is that they commit to if you decide you want to have a site plan for Walsh Road, if you don't, fine, but if you do that within so many days of when they get this plan resolved they'll come back in and resolve Walsh because I want to get the court thing done with, I want it off the dockets.

MR. ARGENIO: It seems to me that given the ambiguity and the confusion and the finger pointing about some meeting that happened X years ago, whatever the number is, Ray, you know what I'm talking about.

MR. STACKHOUSE: We rented this location, that's the problem.

MR. ARGENIO: All that business that happened X years ago with, and there was some shenanigans there, I look back at the record and there was certainly some things that were not quite as above-board as maybe they should have been and that's not pointed at anybody, please believe me.

MR. ROSENWASSER: I read the minutes and it's--

MR. ARGENIO: There's more to the minutes as well, Mr. Rosenwasser, additional paperwork.

MR. ROSENWASSER: Well, I wasn't privy to more than I read in the minutes.

MR. ARGENIO: Additional paperwork that was supplied that had nothing to do with anything that we were talking about, nothing quite literally it seems to me it's in Ray's interest if he has any intention of continuing with things down there, I mean he should get that wrapped up.

MR. EDSALL: That's what I'm suggesting is that we take it a step at a time.

MR. ARGENIO: Do you agree or disagree?

MR. EDSALL: I'd like to take it one step at a time, I'm in agreement and keep these guys going and make the record defensible.

MR. VAN LEEUWEN: I'm agreeing with that, I'm in full agreement.

MR. ARGENIO: I've spoken way too much about this. Does anybody else have any questions?

MR. VIEBROCK: I have one last thing if I could, totally different, this is dealing with the two lots, the note that we placed on the plan saying that this is for site plan purposes only.

MR. ROSENWASSER: There was an issue that you wanted to merge this into a single lot and he wants to preserve the right to keep it as two separate lots but show it as one--

MR. VIEBROCK: We wanted to make sure that counsel was okay with that note. If not, he can craft something and e-mail it to me.

MR. ARGENIO: The request of combining the lots is something that the planning board typically looks for just to clean things up so things aren't a mess with a single operator with multiple lot lines runs through his operation.

MR. STACKHOUSE: They're addressing it with that note.

MR. CORDISCO: We can tweak the language in the note to satisfy the board's concerns.

MR. EDSALL: They have reasons why they don't want to combine it and there are no permanent improvements being made on the one site that makes you combine them so they want to be flexible and it's reasonable.

MR. ARGENIO: Very reasonable in my estimation. What else? If anybody sees fit, I'll accept a motion we waive the public hearing.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we waive the public hearing for Ray's Transportation.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Do we need, I don't want to beat this.

MR. EDSALL: You need negative dec.

MR. ARGENIO: I will accept a motion.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we declare negative dec on Ray's Transportation. Roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. BROWN AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. EDSALL: Can we get, just so that we can craft a condition if you're inclined to put an end to this, can we get some type of timeframe?

MR. ROSENWASSER: That's what the sidebar was because he's got--

MR. ARGENIO: You guys want me to bring the cone of silence down like on Get Smart?

MR. STACKHOUSE: If we're allowed to move in we'll start moving the ties tomorrow under the existing structures. My hangup is how long it's going to take to put the building up, so how do I give you a timeframe based on that building?

MR. ARGENIO: Ray, get the building up, you're a handy guy, you have contacts, come on, man, how long is it going to take, six months, maybe on the out four? Two months? The building will probably go up in, I don't know, three weeks, maybe, hire a contractor.

MR. EDSALL: It's a pole barn.

MR. STACKHOUSE: So six months I guess would be fine.

MR. EDSALL: Can we then get a commitment so for both have you determined if you want to get some type of site plan on record?

MR. ARGENIO: Ray, it's your intent to pursue the building?

MR. STACKHOUSE: Yes.

MR. ARGENIO: Please do pursue it, you have six months but we both know that's probably three times what you need, please pursue it, okay?

MR. STACKHOUSE: Yes.

MR. ARGENIO: Mark?

MR. EDSALL: So you're going to include as one of the conditions that they in fact are completely relocated within six months, they can always come back and ask for an extension. The site plan for Walsh Road, not that there's a reason to connect these two other than maybe a commitment so we can let the court know.

MR. ARGENIO: We're all gentlemen here and we're trying to help you with this court thing and quite frankly we're trying to get the town out of a situation here, you're going to stay there and rent from him in perpetuity?

MR. ROSENWASSER: No, not in perpetuity.

MR. STACKHOUSE: We're going to stay there next year which we'll have the concrete crushing and possibly the garage but after next year we're definitely out.

MR. ARGENIO: You're going to be there another year?

MR. ROSENASSER: That's it.

MR. EDSALL: If one year from tonight they're still in there and haven't gotten site plan approval, they're in violation.

MR. ARGENIO: You're going to be issued a violation.

MR. EDSALL: So if you're going to stay more than a

year, get a site plan in.

MR. STACKHOUSE: Okay.

MR. ARGENIO: If you're going to stay more than a year.

MR. STACKHOUSE: We have all the intentions of leaving.

MR. ROSENWASSER: For a whole host of reasons.

MR. ARGENIO: I understand, certainly counselor believe me more than you know, counselor, I understand.

MR. ROSENWASSER: I'm sure.

MR. ARGENIO: So you're going to get out of there within a year so we're not--

MR. ROSENWASSER: If he intends to stay longer he'll submit a site plan.

MR. ARGENIO: If not sooner, we're not going to get frothed up about the site plan issue down there because you're out of there and our problems go away as a town, everybody wins.

MR. ROSENWASSER: The sun will set.

MR. ARGENIO: Did we go over the wire yet?

MR. CORDISCO: We didn't grant conditional approval.

MR. ARGENIO: What were the conditions?

MR. EDSALL: Conditions will be--

MR. ARGENIO: I'll accept a motion.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded, Dominic please read in the subject-tos and I will tell you what you did wrong.

MR. CORDISCO: I'd rather not, Mr. Chairman.

MR. EDSALL: That note.

MR. CORDISCO: One of the subject-tos would be tweaking the note in regards to the joining of the two lots for site plan purposes.

MR. EDSALL: There's a note 4.

MR. CORDISCO: There's only minor modifications there. The second condition would be that I believe that six months or 180 days within the approval that the railroad tie operation be moved from Walsh Road to this particular location.

MR. ARGENIO: And a year from today actually this is not part of the approval but a year from today you have committed to being out of there otherwise you're in violation on that, in that location, that has nothing to do with your approval.

MR. EDSALL: Subject to the fire inspector's final write-off on the site, I don't know that, did they write off on this one?

MS. JULIAN: Who? I'm sorry.

MR. EDSALL: Did Barney write off?

MR. ARGENIO: Subject to fire.

MR. ROSENWASSER: Clarification on the one year, Ray just informs me his lease is up December 31 of 2010.

MR. ARGENIO: Call it December 31st.

MR. STACKHOUSE: All the intentions of being out of there way before that.

MR. ROSENWASSER: No later than the end of the current lease term which is December 31, 2010.

MR. CORDISCO: For the concrete.

MR. ARGENIO: Whatever you're doing there, it doesn't matter whatever it is I want, I don't want to hear from anybody on the town level because I have to hear from him and I don't want to hear from him.

MR. EDSALL: Just Mr. Rosenwasser could possibly just confirm for the record that relative to the, all the concrete tie crushing and operation down there you're telling us that DEC had no issue with permits on that?

MR. ROSENWASSER: No, we're permitted.

MR. EDSALL: So--

MR. CORDISCO: You have a 360 registration?

MR. ROSENWASSER: Yes.

MR. EDSALL: I want to make sure, so the bottom line is if DEC asks me as they have kind of pressured over the last couple weeks we can say since you have written off on it we have no issue if they stay longer than the previous prescribed time they're coming in with a site plan.

MR. ROSENWASSER: Yes, one of the things that came out of the meetings.

MR. EDSALL: Thank you.

September 9, 2009

81

MR. ARGENIO: Have a good night.

MR. CORDISCO: Just so that the record is clear, Mr. Chairman, I will prepare written resolutions to all of that.

MR. ARGENIO: Yes.

DISCUSSION

HUDSON_HILLS_LEARNING_CENTER

MR. ARGENIO: Discussion, Hudson Hills Learning Center.

MR. EDSALL: Is everyone familiar with the Butterhill Day School down on Route 94, been there for 20 some odd years?

MS. GALLAGHER: Right next to the New Windsor Post Office.

MR. ARGENIO: Yes.

MR. EDSALL: They have been there a long time, they're changing owners and the use is changing to the extent that it is no longer going to be a state regulated daycare, it's going to be a learning center which is kind of like kids get dropped off, get some recreation, some educational opportunities. And I spent a lot of time meeting the former owner and the new owner and based on the specific description it looks as if it's no longer a day school which reduces the bulk requirements, they're doing nothing outside, it's technically a change in use. I suggest you turn it over to the building department to deal with.

MR. ARGENIO: Why do you object to education?

MR. EDSALL: I don't at all, but I also object to not having the record clear.

MR. ARGENIO: Does anybody have a problem with that?

MR. VAN LEEUWEN: No.

MR. ARGENIO: Jen, it's yours. Motion to adjourn?

MR. VAN LEEUWEN: So moved.

September 9, 2009

83

MR. BROWN: Second it.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth
Stenographer

