

TOWN OF WARWICK PLANNING BOARD

February 15, 2012

Members present: Chairman, Benjamin Astorino
Roger Showalter, Vice-Chairman,
Dennis McConnell, Beau Kennedy,
Paul Ruszkiewicz, Christine Little, Alternate
Laura Barca, HDR Engineering
J. Theodore Fink, Greenplan
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, February 15, 2012 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

Review of Submitted Maps:

John G. Pennings and Warwick Automotive Holdings I, LLC.

Application for Sketch Plat Review of a proposed Lot Line Change, situated on tax parcels S 63 B 1 L 1.221 & S 63 B 1 L 1.21; parcels located on the southerly side of State Highway 94 where it intersects the easterly side of Pennings Lane, in the RU/CB zones, of the Town of Warwick.

Mr. Astorino: We received a letter from John McGloin, PLS., dated February 10, 2012 addressed to the Planning Board. The letter is stated as follows:

Dear Mr. Astorino:

At this time my clients have informed me that they wish to withdraw their application for a Lot line Change. They request that their application fees as well as any remaining escrow money be returned to them and that any checks written be made out to "Warwick Automotive Holdings I, LLC".

Thank you for your consideration with regard to this matter and as always should you have any questions or comments please feel free to contact me at 986-1262.

Sincerely,

John A. McGloin

Mr. Astorino: They want to be pulled off. We will pull them off. For the Professionals, whatever review you have done, get the bills in. We will see what we have left. They are withdrawn from the Planning Board.

William Vasquez Subdivision

Application for Sketch Plat review of a proposed 2-Lot (**MINOR**) subdivision, situated on tax parcel S 66 B 1 L 90; parcel located on the southeastern side of Continental Road 1000 feet southwest of State Highway 17A (50/52 Continental Road), in the CO zone, of the Town of Warwick.

Representing the applicant: Dave Getz from Lehman & Getz Engineering.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: pending
4. Architectural Review Board comments: 02/10/12 no comments
5. OCPD: pending submittal
6. The Town Assessor identifies the two homes as being three-bedroom and four-bedroom homes.
7. The existing wells and septic systems within 200-ft must be shown or a note stating that there are none should be added to the drawing.
8. The existing septic system shall be abandoned in accordance with proper protocols, which include pumping the tank after the pipe has been disconnected from the house. The tank and piping can be abandoned in-place if the tank is filled-in; or both can be removed. A note shall be added to the plan.
9. It appears that a small portion of the driveway for Lot 1 is being located on Lot 2; the Applicant may want to consider a small movement in a lot line to avoid this.
10. The Applicant should clarify if there are existing culverts that are not currently shown on the plan; if there are culverts, these should be shown on the plan.
11. Stormwater swales should be located upgradient from both proposed septic systems to allow stormwater to flow around the system rather than over (through) it.
12. The Applicant should clarify where the swale detail on sheet 2 is being proposed. The swale is dimensioned to be 8-ft wide but the septic for Lot 1 is approximately 10-ft from the property line.
13. The Applicant should include the biodiversity overlay on Sheet 1, Note 13.
14. ZBA variances would be required for the following on both lots: lot area, lot width, lot depth, front setback, and side setback. It is recommended that the ZBA be provided with a plan showing existing structures, boundary geometry, and building envelope.
15. Applicant is requesting a waiver from the square rule.
16. Applicant is requesting a waiver from the buildable area requirement.
17. The Applicant should clarify if there will be a shared portion of the driveway after this subdivision. The two driveways could be separated if pavement is removed and landscaping added; or the shared portion of the driveway should be shown on the drawing.
18. Shared driveway agreement to be submitted to Planning Board attorney for review.
19. Surveyor to certify that iron rods have been set at all property corners.
20. Payment of Recreational Fees.
21. Payment of all fees.

The following comment submitted by the Conservation Board:

William Vasquez Subdivision – None submitted.

The following comment submitted by the ARB:

William Vasquez Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has provided the Planning Board with a short EAF. It is an Unlisted Action. The only other Involved Agency is the ZBA. We don't need to coordinate with the ZBA. They will make their own SEQR Determination even if this application might become a Type 2 Action. The Planning Board could go ahead and declare Lead Agency tonight.

Mr. Ruszkiewicz makes a motion for Lead Agency. Seconded by Mr. McConnell. The following Resolution was carried 5-Ayes.

617.6

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Vasquez Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by William Vasquez for a ± 3.1 acre parcel of land located at 52 Continental Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 1/3/12 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted action, and

Whereas, the Planning Board has determined that the proposed project is not within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) do not apply, and

Whereas, after examining the EAF, the Planning Board has determined that there are other involved and/or federal agencies on this matter.

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Comment #2: Applicant to discuss project.

Dave Getz: Mr. Vasquez has owned the property for several years. It is a 3.1-acre lot that is located on the top of Continental Road. It has two single-family residences on it. He proposes to subdivide the lot into two lots. He wouldn't be changing the houses themselves. What he wants to do is make the lot line separations comply. There are new wells and septic systems proposed on the lots.

Comment #3: Conservation Board comments: pending

Comment #4: Architectural Review Board comments: 02/10/12 no comments

Comment #5: OCPD: pending submittal

Comment #6: The Town Assessor identifies the two homes as being three-bedroom and four-bedroom homes.

Mr. Astorino: On the map, they both say that they are three-bedroom homes. Have you sized the septic accordingly?

Dave Getz: Yes. We are going to correct that to show that one of the houses is a four-bedroom.

Mr. Astorino: Which one is that?

Dave Getz: It is the one that is further to the right on the map.

Mr. Astorino: Ok.

Dave Getz: They requested that we size the septic for one-bedroom more. But, they don't propose to make that addition at this time. There is no rule saying that you can't put a system in larger than what the minimum is required. I have no objections in doing that. He wants to make it clear that this application does not include adding any bedrooms to the homes right away.

Mr. Astorino: As of right now, there is 1 three-bedroom home and 1 four-bedroom home.

Dave Getz: Yes. They are going to keep it that way.

Mr. Showalter: It looks like that one septic is larger.

Mr. Astorino: Laura, make a note of that.

Laura Barca: The plans already show septic for numbers 4 and 5. The perc tests and soil tests have been witnessed. They are sized appropriately. They meet the separation distances. They meet all of Orange County's requirements for the larger size septic.

Mr. Astorino: Ok. Great.

Mr. McConnell: Who suggested that you design this larger?

Dave Getz: It was the applicant.

Mr. McConnell: Ok. I wasn't sure with your use of pronouns whether it was. We were talking about the Town's Assessor. I just wanted to make that clear.

Dave Getz: Ok.

Comment #7: The existing wells and septic systems within 200-ft must be shown or a note stating that there are none should be added to the drawing.

Dave Getz: We will do that.

Comment #8: The existing septic system shall be abandoned in accordance with proper protocols, which include pumping the tank after the pipe has been disconnected from the house. The tank and piping can be abandoned in-place if the tank is filled-in; or both can be removed. A note shall be added to the plan.

Dave Getz: Ok. We will add that.

Comment #9: It appears that a small portion of the driveway for Lot 1 is being located on Lot 2; the Applicant may want to consider a small movement in a lot line to avoid this.

Dave Getz: Yes. That seems like a good idea. There is a retaining wall there. We will make that change.

Laura Barca: Ok.

Comment #10: The Applicant should clarify if there are existing culverts that are not currently shown on the plan; if there are culverts, these should be shown on the plan.

Dave Getz: I am not sure if that pertains to anything particular.

Laura Barca: Just under the driveways.

Dave Getz: There is just a shallow swale there. It doesn't have a pipe.

Laura Barca: Is there no pipe underneath currently for drainage?

Mr. Bollenbach: Ben, maybe we should have someone take a look at it to see if a pipe should be installed.

Mr. Astorino: I was just thinking that. We should take a look at that. Are the driveways for 50 & 52 Continental Road existing now?

Dave Getz: Yes.

Mr. Astorino: Ok.

Mr. McConnell: Are they paved?

Dave Getz: Yes. They have been recently paved.

Mr. Astorino: Has there ever been a problem?

Dave Getz: Not that I know of. I think it works well without a culvert. You are welcome to take a look at it.

Mr. Astorino: I will take a look at that.

Comment #11: Stormwater swales should be located upgradient from both proposed septic systems to allow stormwater to flow around the system rather than over (through) it.

Dave Getz: Yes. We will clarify that.

Comment #12: The Applicant should clarify where the swale detail on sheet 2 is being proposed. The swale is dimensioned to be 8-ft wide but the septic for Lot 1 is approximately 10-ft from the property line.

Dave Getz: Yes. We will clarify that.

Comment #13: The Applicant should include the biodiversity overlay on Sheet 1, Note 13.

Dave Getz: Ok.

Comment #14: ZBA variances would be required for the following on both lots: lot area, lot width, lot depth, front setback, and side setback. It is recommended that the ZBA be provided with a plan showing existing structures, boundary geometry, and building envelope.

Dave Getz: That is our next step. You will refer us to the ZBA. It is only 3 acres in the CO zone now. Obviously, the new lots would be even smaller.

Laura Barca: Right.

Mr. Astorino: What would the sizes be of the 2 new lots when you are done?

Mr. Showalter: One lot will be at 1.2 acres. The other lot will be 1.9 acres.

Dave Getz: Right.

Laura Barca: The reason why I made a recommendation of what you should show them that would be an addition to the plans that you have already sent to the Planning Board, it is because the envelope is so small that with all of the topo on there you can't really see that right away. That was the point that I was trying to get at. When the ZBA gets that, they should see the building envelope.

Dave Getz: We will get them a simpler plan.

Laura Barca: Right.

Mr. Astorino: Would the Board want to send a recommendation to the ZBA?

Dave Getz: The way I see it, it is making two small lots but it would still be more conforming than the situation it is in now, which are two houses on one lot.

Mr. Showalter: They are on one lot with one septic.

Mr. Astorino: What does the Board want to do?

Mr. Showalter: Let's send them to the ZBA.

Mr. Astorino: What type of recommendation?

Mr. Showalter: A positive recommendation.

Mr. Astorino: Ok. We will send them to the ZBA with a positive recommendation.

Comment #15: Applicant is requesting a waiver from the square rule.

Mr. Astorino: Obviously, since we are giving them a positive recommendation. We all know that. We will take care of that at the appropriate time.

Comment #16: Applicant is requesting a waiver from the buildable area requirement.

Mr. Astorino: The same thing.

Comment #17: The Applicant should clarify if there will be a shared portion of the driveway after this subdivision. The two driveways could be separated if pavement is removed and landscaping added; or the shared portion of the driveway should be shown on the drawing.

Dave Getz: I think they want to keep it as is. Mr. Vasquez is not here tonight. I would have to ask him. It has recently been paved. I don't think they want to remove anything. The answer is yes. There will be some shared portion.

Comment #18: Shared driveway agreement to be submitted to Planning Board attorney for review.

Dave Getz: Ok.

Comment #19: Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: Ok.

Comment #20: Payment of Recreational Fees.

Dave Getz: Ok.

Comment #21: Payment of all fees.

Dave Getz: Ok.

Mr. McConnell: John, is there a requirement to pay Recreational Fees? We are not talking about any building. The houses are existing. It is not like you are increasing the number of people there.

Mr. Bollenbach: No additional dwelling units, but it is an additional lot. The fees are based on the creation of additional lots.

Mr. McConnell: It seems unfair since they already exist and the people are already there. You are not increasing anything requiring any further parkland or anything else.

Mr. Bollenbach: They could always make a waiver application to the Town Board.

Mr. Astorino: Do any Board members or Professionals have any comments? You are off to the ZBA.

Mr. Bollenbach: I thought I went over this with Laura and Dave regarding the water availability. What about the wells and portable water availability?

Mr. McConnell: We talked about that at the Work Session.

Dave Getz: I talked to the owner about that. Since we are not increasing the number of bedrooms in either home, it would not have any impact.

Mr. Bollenbach: Are you not increasing the number of bedrooms?

Dave Getz: Correct.

Mr. Bollenbach: But, you are changing them. It would have the capability to go from 3 to 4 and from 4 to 5 bedrooms. Just across the road, there has been some difficulty in the past. The Planning Board then required that the wells be installed prior to the issuance of the approval.

Dave Getz: I would suggest that prior to him being allowed to increase the number of bedrooms, then he would have to come to the Town.

Mr. Bollenbach: You are drilling a well now. We have the problem across the street.

Dave Getz: We are not adding people.

Mr. Bollenbach: How many wells are you planning to drill?

Dave Getz: Two wells. There are two wells on the property now.

Mr. Bollenbach: The property across the street has a problem with water availability.

Mr. Astorino: When do you plan on drilling the new wells?

Dave Getz: I am not sure. I would have to check with the owner.

Mr. Bollenbach: There was even a notification requirement for the neighbors in the area with monitoring requirements.

Dave Getz: Was that for an existing home?

Mr. Bollenbach: That was for the Daly subdivision. It is directly across the street.

Mr. Fink: Dave, do you have any records of the existing wells?

Dave Getz: No. He said that he hasn't had any trouble. I will see if I could get some.

Ms. Little: The 2nd house was listed as a 3-bedroom, but it is actually a 4-bedroom house.

Mr. Astorino: It is a 4-bedroom house. The tax records show it as a 4-bedroom house.

Ms. Little: Ok.

Mr. Bollenbach: You might want to take a look at the Brenden Daly subdivision.

Mr. Astorino: I think he was supposed to do the testing before hand.

Mr. Bollenbach: Was it never completed?

Mr. Astorino: Was he supposed to do the testing before the issuance of a C of O or a Building Permit to do the wells?

Mr. Bollenbach: We will have to take a look at it. Before you go ahead, that issue has to be addressed.

Mr. Astorino: Since the houses are there, maybe we could get the well logs. You are not using any of the existing well?

Dave Getz: Correct. They are not where the separations would be.

Mr. Astorino: How far are the new wells from the existing?

Dave Getz: They are quite a bit further up into the back. It might be a couple hundred feet.

Mr. Bollenbach: The thing is you don't go and abandon a well and create a subdivision if you don't have demonstrated water availability.

Dave Getz: Isn't someone allowed to replace a well on their property?

Mr. Bollenbach: You have an existing well right now that is servicing those two homes nicely. If you cannot demonstrate that there is water availability to service those two separate lots, there is an issue.

Dave Getz: What is the increase in use?

Mr. Bollenbach: The new well locations. The well that was across the street couldn't be 100 feet from this particular property. There were water problems as per the public hearings.

Mr. McConnell: Since you have to put the wells in a different location, you have to prove out those locations. I think that is what I am understanding from what John is saying.

Mr. Bollenbach: Correct.

Dave Getz: Did everything expire here? I have never been involved with anything like that.

Mr. Bollenbach: This will be your first experience. It has been required many times. The last subdivision that we had was the Hampton Hill subdivision. There was a requirement that for each lot that there would be a protocol that a well would be dug for each lot in advance of subdivision approval.

Dave Getz: Old Worlds Estates also had to do that. But that was for new homes.

Mr. Bollenbach: It was for new wells.

Dave Getz: Wells don't create a water demand. People create a water demand. We are not adding bedrooms.

Mr. McConnell: But, you will be drawing water from a different place.

Laura Barca: What are we proposing for him to do?

Mr. Showalter: Drill the well and prove that there is water.

Mr. Astorino: I don't know about doing the monitoring. If you are going to drill a well, you will need to prove that there is water in the well to service the homes that you have on site.

Mr. Bollenbach: There was a monitoring requirement that the neighboring well property owners would be notified that there would be an opportunity for monitoring.

Laura Barca: In my mind that was for an increase in use for a new home. Once the new wells are in place, the existing wells would be abandoned. Although the new wells would be in a new place, there is no real increase in use like there was across the street.

Mr. Bollenbach: I am talking about the location of new wells. Ted, I think this is more of a SEQR issue.

Mr. Fink: I think if we could get some information on the existing wells, it might help us understand what is going on across the road if there was such an issue.

Dave Getz: What if we follow the testing and you didn't like the results of the testing, are you saying we would have to move?

Mr. McConnell: No. You would have to continue using the well that has been servicing it, which would prevent you from doing the lot line change. That would be the most logical.

Dave Getz: We have to test what is there now to see what impact that has. Then, we would have to test what is new. Then, we would have to compare the impacts if there is a restrictive aquifer.

Mr. McConnell: Ok.

Mr. Astorino: I don't buy that. You are using two wells right now for each home.

Mr. McConnell: I thought they were using only one well.

Dave Getz: There are two wells on the property. I think one well has been abandoned. I think the one existing well services both dwellings.

Mr. Bollenbach: Maybe we could find out why the other well was abandoned.

Mr. Astorino: Ok. This would have to be something that would need to be discussed with Laura and Ted. Let us find out information on the existing wells. You have an existing well that is being used right now. The well with the concrete top is worthless. You are not going to test that. Let us find out how many gallons per minute. We will go from there.

Dave Getz: Ok.

Mr. Astorino: You have to go to the ZBA regardless. You have some time on that.

Dave Getz: Ok.

Mr. Astorino: Find out what the owners plans are for drilling these new wells. If it is in his plan to drill a couple of wells right away, let's get them in. You might have 6 or 7 g.p.m, it might take care of this issue. We will see about that.

Dave Getz: Ok. Thank you.

Mr. Astorino: I guess the wells have to be moved because of the septics.

Dave Getz: That is right. Thank you.

Other Considerations:

1. **Lands of Brian Singer** – Letter from Kirk Rother, P.E., dated 1/13/12 received on 1/18/12 addressed to the Planning Board in regards to the Brian Singer Subdivision – requesting a 6-Month Extension on Re-Approval of Final Approval for a proposed 2-Lot subdivision, situated on tax parcel SBL # 66-1-75; parcel located on the western side of Briller Road 1000 feet south of Continental Road, in the CO zone. Conditional Final Approval of the “Amendment of the Conditions” was granted on, 6/2/10. The Re-Approval of Final Approval was granted on 8/17/11 became effective on 6/2/11. *The applicant has stated that they are still in litigation with the former owner over the right-of-way. It is the applicant’s hope that this matter will be resolved in the near future, after which the applicable fees will be paid and other applicable conditions satisfied.* The 6-Month Extension becomes effective on, 12/2/11.

Mr. McConnell makes a motion on the Brian Singer application, granting a 6-Month Extension on the Re-Approval of Final Approval for a proposed 2-Lot subdivision. SBL # 66-1-75. Conditional Final Approval of the “Amendment of the Conditions” was granted on, 6/2/10. The Re-Approval of Final Approval was granted on 8/17/11 became effective on, 6/2/11.

The 6-Month Extension becomes effective on, 12/2/11.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

2. **Gary Randall Subdivision #4** – Letter from Dave Getz, Lehman & Getz Engineering, dated 2/7/12 addressed to the Planning Board in regards to the Gary Randall Subdivision #4 – requesting “**Re-Approval**” of Final Approval of a Proposed 3-Lot subdivision, situated on tax parcel SBL # 19-1-47.2; parcel located on the western side of State Highway 94 whereas driveway is 500 feet north of Minturn Road, in the MT zone. Conditional Final Approval was granted on, 2/7/11. *The applicant has stated that due to financial reasons and a surveyor not ready yet that they should be completing the conditions of final approval within 6-months and that the Re-Approval of Final Approval is need.* The Re-Approval of Final Approval becomes effective on, 2/7/12.

Mr. Ruskiewicz makes a motion on the Gary Randall Subdivision application, granting “**Re-Approval**” of Final Approval for a proposed 3-Lot subdivision, situated on tax parcel S 19 B 1 L 47.2; parcel located on the western side of State Highway 94 whereas driveway is 500 feet north of Minturn Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York. Conditional Final Approval was granted on, 2/7/11.

The Re-Approval of Final Approval becomes effective on, 2/7/11.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

3. **Edsall Farm, LLC.** – Planning Board to discuss setting the Edsall Farm for a Final Public Hearing.

Mr. Astorino: We neglected to do that at the last Planning Board meeting. This would save them from coming back for another meeting. That would make sense.

Mr. McConnell makes a motion to set the Edsall Farm, LLC., application for a Final Public Hearing at the next available agenda.

Seconded by Mr. Showalter. Motion carried; 5-Ayes.

4. **Planning Board Minutes of 1/18/12** – Planning Board to Approve the Planning Board Minutes of 1/18/12.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 1/18/12.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

Correspondences:

Mr. Astorino: We have a couple of correspondences this evening. I have one correspondence from Michael Callan, Sr. NYSDEC Forester. *What he is saying is that if we are interested, he would be glad to help us and any interested people to better understand the services that we at the DEC provide to keep forest intact and remain productive forestry. I would come to a future meeting with a sound forest management on private lands if invited. If the Board wants to get any information from the DEC on some forestry practices, he would be glad to come.* If that is something that the Board would like, let us know. We could do that at a Work Session. We will discuss that at the next Work Session. We will get back to him. We also have Planning Federation information here. Just to remind the Board members that it is a new year. We have to get 4 credits each by the end of the year. If you have any free time, I don't know where these are located. The ones that are held in Goshen are good. The ones in Goshen are close.

Mr. Showalter: This NYS Planning Federation seminar is being held in Saratoga in April.

Mr. Astorino: Yes. We don't have any money for that. Again, I just want to make the Board aware that each member needs to earn 4 credits by the end of the year.

Mr. Showalter: For the new members, they usually do the courses in the Fall at BOCES. I know that I have to go to get credits.

Privilege Of The Floor For Agenda Items!!

Mr. Astorino: If there is anyone in the audience wishing to address any of the agenda items, please rise and state your name for the record. Let the record show no public comment.

Mr. McConnell makes a motion to adjourn the February 15, 2012 Planning Board meeting.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.