

TOWN OF WARWICK PLANNING BOARD

February 20, 2013

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 20, 2013 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.

Mr. Astorino: Since this is our first meeting of the New Year, I would like to do a little housekeeping first. I would like to appoint Mr. Roger Showalter as Vice-Chairman for the year 2013. I would like to thank him in advance for when he covers for me. Welcome back everybody.

**PUBLIC HEARING OF MJJ Builders Corp.**

Application for Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 41 B 1 L 54.1; parcel located on the eastern side of DeKay Road 581± south of Miller Lane, in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Anthony Trochiano, Pietrzak & Pfau Engineering

Ms. Little recuses herself from the MJJ Builders 2-Lot subdivision application.

Connie Sardo: Mr. Chairman, we just received the certified mailings for the MJJ 2-Lot DeKay Road subdivision.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: 07/30/12 insufficient data submitted for preparation of comments; 12/18/12 no comments at this time
4. Architectural Review Board comments: 09/12/12 ARB would like to see elevations when available; 12/19/12 no comments at this time; 02/20/13 no comments at this time
5. OC Planning Department: 8/1/12 no advisory comments
6. The recording information for the parcel deed must be submitted.
7. Sheet 1 should call out any existing monuments/pins.

8. Provide a map note stating that, “No construction or use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”  
– Completed, Sheet 1 Note 17
9. Surveyor to certify that iron rods have been set at all property corners.
10. The declaration for the roadway dedications and agricultural notes must be added to the plans.
11. Payment of parkland fees.
12. Payment of all fees.

The following comment submitted by the Conservation Board:

MJJ Builders Corp 2-Lot DeKay Rd Subdivision – None submitted.

The following comment submitted by the ARB:

MJJ Builders Corp 2-Lot DeKay Rd Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: There were 2 primary issues under SEQR. One issue is that it is in an area that is considered archeological sensitive. The applicant engaged Tracker Archeological Services to conduct a Phase 1 assessment. They went out and had done shovel test holes. They had done documentary research and so forth. They did not identify any area on the site that was archeological sensitive. That had become a non issue. The other issue is that a large part of the site has a State Protected Freshwater Wetland on it. It is also within the Town’s Bio-Diversity Conservation area. They did undertake a habitat assessment and Bio-Diversity assessment of the property. There are no direct impacts on the wetlands. They don’t need any State wetland permits. Biologists from North Country Ecological Services were the ones that had done the assessment. They went out looking for endangered species on any evidence for Bog turtles, Bald eagles, Indiana Bats, etc... They had done a very thorough investigation. They did not identify any areas in the portions of the property that would be disturbed.

Mr. McConnell: What is a Small-whorled Pogonia?

Mr. Fink: I am not a Biologist. I am not the right person to ask. But, they did not find any.

Comment #2: Applicant to discuss project.

Anthony Trochiano: This project is a proposed 2-Lot subdivision of single-family homes. It is situated on tax parcel SBL # 41-1-54.1. The property is located on DeKay Road. It is in the RU zone. The property is located in the Town’s Bio-Diversity Conservation Overlay District (BC-O). It is also located in the Agricultural Overlay District. There are DEC wetlands located on the property. Each lot would be served by its own individual wells and septic.

Mr. Fink: There is one thing that I would like to point out. In the Archaeological study, they looked at the area of potential effects. They did look at the area of the State Protected Freshwater Wetland as well as the 100-foot adjacent area. There was a recommendation in the Archaeological study. If any wetland permits are applied for in the future, another words if one of the two landowners wanted to do some sort of disturbance activity within that 100-foot adjacent area, that there would be further investigation of those areas because they weren't tested. Because we had done a coordinated review on this, we sent a request for the Planning Board as Lead Agency to the DEC. If the Board adopts the Negative Declaration tonight, that would get forwarded to the DEC so that they would be aware of that.

Mr. Astorino: Ok.

Mr. Bollenbach: What do you suggest that we do? Do we put that in a Declaration format or a map note? That way the perspective purchasers would also know that. Is there a map note?

Mr. Fink: What they had proposed on the subdivision plan that there would be a Deeded Declaration that is a positive identification for the future landowners that if they do work in the State's protective wetland area, they would have to get a permit from the State. That is one of the things the DEC asks for when they verify the wetland delineation that has been prepared. I believe the wetland certification had said that. I think there is also a map note.

Anthony Trochiano: Yes. There is a map note. Map note #19 states, "*Upon creation of the lots, the Deeds shall include a notice to alert future owners to the presence of the State regulated freshwater wetlands and regulated 100-foot adjacent area.*" The 2<sup>nd</sup> map note, note #20, "*Any proposed construction, grading, filling, excavating, clearing or other regulated activity within the state freshwater wetland or adjacent 100 feet requires a permit from the NYSDEC under Article 24 of the Environmental Conservation Law (Freshwater Wetlands Act) prior to the commencement of work.*"

Mr. Bollenbach: We could add that into the Declaration. You would have to add the Liber and Page to that note.

Anthony Trochiano: Ok. No problem.

Comment #3: Conservation Board comments: 07/30/12 insufficient data submitted for preparation of comments; 12/18/12 no comments at this time

Comment #4: Architectural Review Board comments: 09/12/12 ARB would like to see elevations when available; 12/19/12 no comments at this time; 02/20/13 no comments at this time

Comment #5: OC Planning Department: 8/1/12 no advisory comments

Comment #6: The recording information for the parcel deed must be submitted.

Anthony Trochiano: Yes.

Comment #7: Sheet 1 should call out any existing monuments/pins.

Anthony Trochiano: We will add that.

Comment #8: Provide a map note stating that, "No construction or use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." – Completed, Sheet 1 Note 17.

Anthony Trochiano: No problem.

Comment #9: Surveyor to certify that iron rods have been set at all property corners.

Anthony Trochiano: Yes.

Comment #10: The declaration for the roadway dedications and agricultural notes must be added to the plans.

Mr. Bollenbach: That is the dedication for the roadway strip. There would be a dedication for the roadway and the declaration for the agricultural and wetland notes. It must be added to the plans.

Mr. Astorino: Ok. Anthony, are you ok with that?

Anthony Trochiano: Yes.

Comment #11: Payment of parkland fees.

Anthony Trochiano: No problem.

Comment #12: Payment of all fees.

Anthony Trochiano: No problem.

Mr. Astorino: Do any Board members or Professionals have any comments?

Mr. McConnell: I have a question regarding the Draft Negative Declaration that Ted had prepared? What is the historic structure referenced as in the Negative Declaration?

Mr. Fink: They had not identified in the Archeological study. It didn't say specifically what it is.

Mr. McConnell: Right.

Anthony Trochiano: I believe it is like an old well.

Mr. McConnell: Isn't it odd that they would say there was an historical structure without identifying it? I find that raises questions that could be easily answered. It should be answered rather than leaving it out there as an historical structure. A structure could be anything from a dwelling of some sort like when you pointed out a well. It would certainly have a different impact on me if it was a well as opposed to being a dwelling. This isn't labeled as an historic structure. Are you representing that this picture is a historic structure? I am missing connections between Point A, B, and C. I just want to make sure we have those connections delineated so that we don't have to answer it at some future date. Why didn't we look at this?

Mr. Bollenbach: Ted, maybe you could find some information.

Mr. Fink: What it says, one historic structure and associated artifacts was encountered adjacent to the area of potential effect within the wetland setbacks. No further work is recommended to the project area. However, if the wetland setback is disturbed in an historic site then further work a Phase 2 intensive testing investigations would be recommended.

Mr. Astorino: What they are saying whatever it is, however it is, no matter what if you go near it, you would then have to go to Phase 2 intensive testing?

Mr. Fink: Correct. Of course, the DEC is already aware that this is a sensitive area. They would have to comply with the State Historic Preservation Act. Before they could issue any permits or even deem an application complete, if it were to come in for a future wetland permit. The first thing they would do is go back and require the applicant to do that.

Mr. McConnell: Understood. But this concern is somewhere down the road, some other agency looking at this and it says historic structure and they say the Planning Board had looked at this already so they wouldn't have to question.

Mr. Astorino: We don't even handle that. We would follow their recommendation.

Mr. McConnell: We are putting our name on this Negative Declaration. The Negative Declaration is vague not by Ted's fault because he wasn't given the information. What I am suggesting is that we might want to make the Negative Declaration more accurate and more complete by having someone identify the historic structure that is referenced. I am not holding up the thing. I just want to be sure.

Mr. Astorino: My question to Anthony is, is that photograph of the historic structure?

Anthony Trochiano: I don't know if we should be calling it an historic structure.

Mr. McConnell: Ted was reading from the report from your experts. They referenced it as an historic structure.

Mr. Fink: They also reference it as associated artifacts.

Mr. McConnell: I don't even know what that is.

Mr. Showalter: It looks like someone's old barbeque pit.

Mr. McConnell: Ok. Then say that. Call it an historic barbeque pit. But, I don't know that.

Mr. Astorino: Maybe they don't know what it is either. Maybe that is why they are saying it is an historic structure.

Mr. McConnell: You hire an expert that gives some vagueness like this that just causes me concern.

Jonah Mandelbaum: It is an undisturbed area that we don't propose to disturb. They feel it is sufficient enough for you. I don't have a problem with you putting a clearing limit line on the map so that nothing there would get disturbed.

Mr. Astorino: I don't even know if that is necessary. My point is, the protection is already there. We already talked about this with a Deeded Declaration and going back to get a Phase 2. The protection is there. I understand Dennis point.

Mr. McConnell: I am just one member of the Board. You are free to make whatever decision you would like to make. I am not comfortable with leaving the vague term historic structure and associated artifacts. I just want someone to clarify that. That is all.

Mr. Fink: Why don't we amend the Negative Declaration tonight with a provision that upon filing the Negative Declaration to the DEC, which we have to do by law. We could send a letter to the DEC along with a copy of this report.

Mr. Astorino: Dennis, are you comfortable with what Ted had said?

Mr. McConnell: Yes.

Mr. Astorino: Is the rest Board ok with Ted sending a letter to the DEC? Ok. The Board is comfortable with that.

Mr. Fink: I could also amend the Negative Declaration to reflect that. I could put in stating the associated artifacts were described as possible nineteenth century cobalt blue glass fragments.

Mr. McConnell: That would work for me. It wasn't meant to delay this.

Mr. Astorino: Does the Board or Professionals have any other comments or concerns? This is a Public Hearing. If there is anyone in the audience wishing to address the MJJ 2-Lot subdivision, please rise and state your name for the record. Let the record show no further public comment.

Mr. McConnell makes a motion for the Negative Declaration.

Seconded by Mr. Kennedy. The following Resolution was carried 4-Ayes.

617.12(b)

**State Environmental Quality Review (SEQR)**  
Resolution Authorizing Filing of Negative Declaration

**Name of Action:** 2-Lot DeKay Road Subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed two lot subdivision by MJJ Builders, Town of Warwick, Orange County, New York, and

**Whereas**, there are other involved agencies pursuant to SEQR, including the New York State Department of Environmental Conservation, and

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated June 25, 2012, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

**Now Therefore Be It Resolved**, that the Planning Board adopts the findings and conclusions relating to probable environmental effects contained within the attached EAF and Negative Declaration and authorizes the Chair to execute the EAF and file the Negative Declaration in accordance with the applicable provisions of law, and

**Be It Further Resolved**, that the Planning Board authorizes the Chair to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

Mr. McConnell makes a motion to close the public hearing.

Seconded by Mr. Showalter. Motion carried; 4-Ayes.

Mr. McConnell makes a motion on the MJJ Builders Corp., application granting Final Approval for a proposed 2-Lot subdivision, situated on tax parcel S 41 B 1 L 54.1; parcel located on the eastern side of DeKay Road 581± feet south of Miller Lane, in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on, February 20, 2013. Approval is granted subject to the following conditions:

1. The recording information for the parcel deed must be submitted.
2. Sheet 1 should call out any existing monuments/pins.
3. Provide a map note stating that, "No construction or use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained."  
– Completed, Sheet 1 Note 17
4. Surveyor to certify that iron rods have been set at all property corners.
5. The Dedication for the Roadway Strip and Declaration for Agricultural and Wetland notes must be added to the plans.
6. Locate and Identify Historic structure.
7. Payment of Parkland Fees.
8. Payment of all fees.

Seconded by Mr. McConnell. Motion carried; 4-Ayes.

Anthony Trochiano: Thank you.

**PUBLIC HEARING OF Stephen Pennings, Et. Al c/o Richard Pennings**

Application for Preliminary Approval of a proposed 3-Lot subdivision + 1-Commercial Lot entitled, **Orchard Valley**, situated on tax parcel S 51 B 1 L 36; parcel located along the southern side of State Highway 94 at the intersection of Warwick Turnpike (CR 12), in the RU/CB zones, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Kirk Rother.

Ms. Little returns to the Planning Board.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Orchard Valley public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: 12/05/11 no comments
4. Architectural Review Board comments: 02/19/13 no comments at this time
5. OCPD: 12/14/11 letter with advisory comment to coordinate with OCPDW.
6. OCPDW: pending submittal
7. NYSDOT: pending submittal
8. The bulk requirements table for the RU and RR-5 zones should be revised to include the proposed dimensions.
9. The applicant is proposing a "Flag Lot" for Lot 4 of the subdivision. According to § 137-21 K. (2) (b) flag lots are not permitted with frontage on a State or County Highway.
10. The applicant shall revise the front, side, and rear yard setbacks for Lots 2 and 4 so they are shown in accordance with Chapter 164 of the Town of Warwick Code.
11. The applicant shall revise the areas acreage for each lot is the same on each sheet. Currently the area for Lot 4 varies from Sheet 1 to Sheet 2.
12. The plans state that there are four property owners; all four owners should sign the application form or if there is a power of attorney, that documentation shall be submitted and the application re-signed.
13. The sight distance should be shown along Warwick Turnpike at the location of the new driveway entrance.
14. The applicant shall revise the proposed grading for the driveway pad near the dwelling on Lots 3 and 4. The proposed grading depicts grades of 10 percent in these areas which may make it difficult to enter and exit the garages.
15. The applicant shall provide approximate finished floor elevations for each dwelling. In addition, spot elevations should be provided at each corner of the dwelling and garage entrances to demonstrate positive pitch away from the dwelling.
16. The plans should be updated to show grading for the proposed swales. In addition, sizing calculations should be provided to demonstrate the swale is adequately sized to pass the required storm event. A detail of the proposed swale should be included on the detail sheet.

17. On Sheet 4, the title of the swale detail should be revised to remove the word “septic.” In addition, dimensions should be provided.
18. Calculations should be provided to demonstrate the rip rap has been sized in accordance with the New York State DEC Standards and Specifications for Erosion and Sediment Control, latest edition.
19. The applicant shall provide an Erosion & Sediment Control plan developed in accordance with the NYSDEC Standards and Specifications for Erosion and Sediment Control, latest edition. The plan shall include the proposed location of all features.
20. The applicant shall demonstrate conformance with § 164-47.10 of the Town of Warwick Code.
21. The Applicant is requesting a waiver from a 6-in subbase and 3-in top course to a 12-in subbase & a 2-in top course.
22. Applicant to confirm that signage is in accordance with §164-43.1 of the Town Code.
23. Applicant to confirm that lighting is in accordance with §164-43.4 of the Town Code.
24. There is a site plan for Pennings Farm Market that received final approval and the maps were signed by the Chairman on 03/18/09. The site improvements on this plan have not been installed in accordance with the plan.
25. On Sheet 1 of 2 on the Cluster Plan, Applicant to clarify if the access road to the pavilion is existing or proposed. All proposed site modification must be included in this site plan application. Comment now applies to Sheet 1 of 4.
26. The location of the Ridgeline Overlay should be shown on the drawing; this will determine the allowable height of the homes to be constructed.
27. The applicant shall clarify the note on Sheet 1 of 4 that states “Based on a determination by the Town of Warwick Building Department, an aquifer impact assessment is not required.”
28. Proper documentation should be added to the plan to ensure that the marginal access road alignment is consistent with adjacent lots.
29. Easement descriptions and proper documentation for the future marginal access road must be submitted.
30. The declaration information for the Ridgeline Overlay District, Aquifer Protection Overlay District, and Agricultural Overlay District will need to be shown.
31. A private roadway easement and agreement must be prepared and submitted to the Attorney.
32. Surveyor to certify that iron rods have been set at all property corners.
33. A bond for the common driveway shall be determined for Lots 2 and 3 to the Planning Board Engineer’s specification.
34. Payment of parkland fees for 3 lots.
35. Payment of all fees.

The following comment submitted by the Conservation Board:

Orchard Valley Subdivision – None submitted.

The following comment submitted by the ARB:

Orchard Valley Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: On this application there was one primary issue. That was the issue of archaeological. There was an area on the site that was deemed to be eligible for the

National Register. It is not within the area that is proposed for either of the building lots. It is within the area that has been proposed for the Town's Purchase of Development Rights. There was a thorough investigation done. That was done back in the year 2006 when this was consisted of more lots. The areas that were tested included the areas where the proposed 2 houses were to be including the driveways. One of them did have a couple of locations where they had found artifacts. They actually did do a Phase 2 testing program. They went beyond it. Phase 1, they had done documentary research. It was called shovel test holes. It is where they use a shovel and a screen. They take a look at anything that is within a grid of every 50 feet or so they put in a hole. Once they find something, then they do a test pit. That is a 1 meter square area where they actually could potentially go down centimeter by centimeter. Then they would sift through everything. They would look for anything that might be significant. They did not find anything after they had done the Phase 2 testing in the areas that are proposed for development. At this point, I think they have done a total investigation for any potential archaeological impacts. The only one area that they did recommend for a future National Register...They did file it with the State. We do have a letter from the State. The letter was written by Doug Mackey. That was done back in the year 2006. That would be up to the State to determine whether or not they would pursue National Register status for that.

Mr. Astorino: We have been through this project for quite some time.

Comment #2: Applicant to discuss project.

Mr. Astorino: This Board has seen this for numerous years.

Kirk Rother: This has been going on since the year 2003. There is nothing different.

Mr. Astorino: Do any Board members have any questions for the Engineer?

Comment #3: Conservation Board comments: 12/05/11 no comments

Comment #4: Architectural Review Board comments: 02/19/13 no comments at this time

Comment #5: OCPD: 12/14/11 letter with advisory comment to coordinate with OCDPW.

Comment #6: OCDPW: pending submittal

Mr. Astorino: That means your entrance permit would lead us to this comment. Does that mean that is still pending?

Kirk Rother: Yes.

Comment #7: NYSDOT: pending submittal

Kirk Rother: There is no proposed entrance onto the NYSDOT now. The entrance for the Farm Market was reviewed and approved by them. It is just all of those improvements haven't been built yet. Laura, whether or not now, we are submitting this to the NYSDOT?

Mr. Astorino: I think it was. Is that correct? Did you re-submit it to the NYSDOT or does the Town do that?

Kirk Rother: I haven't done that.

Connie Sardo: We do that. Kirk, you have to send to me 2 sets of plans.

Kirk Rother: This was submitted to the NYSDOT for the entrance for the Farm Market. Nothing has changed.

Mr. Astorino: Except, this is a new subdivision. We have to send it to the NYSDOT and OCDPW. Did you send it to OCDPW yet?

Connie Sardo: No. He has not. I have to send it. That is why I am asking for 2 sets of plans from Kirk.

Mr. Astorino: We will need 2 sets of plans from you. Laura, do you feel we have to send it to the NYSDOT?

Laura Barca: I think we should.

Connie Sardo: Kirk, could you get to me 2 sets of plans?

Kirk Rother: I have them for you tonight.

Mr. Astorino: Ok. Connie will send them in tomorrow. Laura, as far as the rest of these comments, do any of them stand out to you?

Laura Barca: No. Unless Kirk has anything on these comments.

Mr. Astorino: Kirk, are there any comments you want to go over?

Kirk Rother: Laura and I went over a couple of them this evening. We agreed to knock off some of them. I have a question on comment #9.

Comment #8: The bulk requirements table for the RU and RR-5 zones should be revised to include the proposed dimensions.

Comment #9: The applicant is proposing a "Flag Lot" for Lot 4 of the subdivision. According to § 137-21 K. (2) (b) flag lots are not permitted with frontage on a State or County Highway.

Kirk Rother: Looking at the map, this is Lot #4, which is the lot behind Dick Pennings house. In 10 years we are going to try to create exactly a 4-acre lot. It does front on a County Highway. The way the subdivision Regulations read, that lot would have to have a minimum frontage on the County Highway. In this zone, I think it would have to have 250 feet. Since it is a subdivision, I know the Board could have the ability to waive the requirement. I know you have done it before on a County Highway. I know you have done that before with my personal subdivision. That was a cluster subdivision. I think the spirit of the requirement is to try not to create a whole bunch of driveways next to each other on a County road. Here with the intent of this going into PDR, hopefully that will happen. Even if the Board wants to make it a condition of granting the waiver that if

there is any future development and it doesn't go through PDR, then we should provide the minimum frontage or something like that.

Mr. Astorino: John, what is the status with the PDR? Is it proceeding?

Laura Barca: Or, you could wait to hear from OCDPW to see if they don't have a problem with the cut.

Mr. Astorino: Yes.

Mr. Bollenbach: We could grant the waiver. They could make it so that it would comply with the Code but, then they would use up the area of the orchard that is productive farmland.

Mr. Astorino: Yes. That doesn't make any sense.

Mr. Bollenbach: I would say a waiver would be warranted subject to the OCDPW's response.

Mr. Astorino: Yes. Let us see what the County says. Do any other comments stand out to you or Laura?

Kirk Rother: Yes, I have another one. Comment #20, I have a question on.

Comment #10: The applicant shall revise the front, side, and rear yard setbacks for Lots 2 and 4 so they are shown in accordance with Chapter 164 of the Town of Warwick Code.

Comment #11: The applicant shall revise the areas acreage for each lot is the same on each sheet. Currently the area for Lot 4 varies from Sheet 1 to Sheet 2.

Comment #12: The plans state that there are four property owners; all four owners should sign the application form or if there is a power of attorney, that documentation shall be submitted and the application re-signed.

Comment #13: The sight distance should be shown along Warwick Turnpike at the location of the new driveway entrance.

Comment #14: The applicant shall revise the proposed grading for the driveway pad near the dwelling on Lots 3 and 4. The proposed grading depicts grades of 10 percent in these areas which may make it difficult to enter and exit the garages.

Comment #15: The applicant shall provide approximate finished floor elevations for each dwelling. In addition, spot elevations should be provided at each corner of the dwelling and garage entrances to demonstrate positive pitch away from the dwelling.

Comment #16: The plans should be updated to show grading for the proposed swales. In addition, sizing calculations should be provided to demonstrate the swale is adequately sized to pass the required storm event. A detail of the proposed swale should be included on the detail sheet.

Comment #17: On Sheet 4, the title of the swale detail should be revised to remove the word "septic." In addition, dimensions should be provided.

Comment #18: Calculations should be provided to demonstrate the rip rap has been sized in accordance with the New York State DEC Standards and Specifications for Erosion and Sediment Control, latest edition.

Comment #19: The applicant shall provide an Erosion & Sediment Control plan developed in accordance with the NYSDEC Standards and Specifications for Erosion and

Sediment Control, latest edition. The plan shall include the proposed location of all features.

Comment #20: The applicant shall demonstrate conformance with § 164-47.10 of the Town of Warwick Code.

Kirk Rother: Regarding Section 164-47.10, it is a new Section of the Town's Code that I am not really familiar with. It is the Town's new stormwater requirements that were adopted in October 2012. I took a quick look at it this evening. The way the new Code is written, this would technically fall under the Step 2 SWPPP. It is between 1 and 5 acres of disturbance total.

Mr. Astorino: Yes.

Kirk Rother: That Step 2 SWPPP has a quite a long list of things that are required to go along with it on my part. At the end of the day, the analysis is going to be that we are putting 3 lots on 60 acres. There would not be any stormwater mitigation required. That Section of the Code allows the Board to waive the requirement. I would ask for you to do that.

Mr. Astorino: That would be something that we would discuss with our Engineer.

Laura Barca: Ok.

Kirk Rother: All I am looking to do is to try to save the Pennings some money.

Mr. Astorino: We have to be comfortable with it. I understand your point.

Mr. Bollenbach: That is why we specifically put that language in where the Board does have that flexibility.

Mr. Astorino: I want a confirmation from our Engineer that you feel comfortable with that.

Laura Barca: Right.

Mr. Astorino: Kirk, can you provide enough information to us that a waiver would be warranted?

Kirk Rother: I suspect that Laura will look into it. There is one house on 4 acres a second house on 2 acres. Then there is another house on 50 acres.

Mr. Astorino: Laura, I am sure you would get back to the Board with your answer.

Laura Barca: Ok.

Kirk Rother: I would like to talk about Comment #27.

Comment #21: The Applicant is requesting a waiver from a 6-in subbase and 3-in top course to a 12-in subbase & a 2-in top course.

Comment #22: Applicant to confirm that signage is in accordance with §164-43.1 of the Town Code.

Comment #23: Applicant to confirm that lighting is in accordance with §164-43.4 of the Town Code.

Comment #24: There is a site plan for Pennings Farm Market that received final approval and the maps were signed by the Chairman on 03/18/09. The site improvements on this plan have not been installed in accordance with the plan.

Comment #25: On Sheet 1 of 2 on the Cluster Plan, Applicant to clarify if the access road to the pavilion is existing or proposed. All proposed site modification must be included in this site plan application. Comment now applies to Sheet 1 of 4.

Comment #26: The location of the Ridgeline Overlay should be shown on the drawing; this will determine the allowable height of the homes to be constructed.

Comment #27: The applicant shall clarify the note on Sheet 1 of 4 that states “Based on a determination by the Town of Warwick Building Department, an aquifer impact assessment is not required.”

Kirk Rother: Regarding the Aquifer Impact Assessment, I have this note on here. It states; *“based on a determination by the Town of Warwick Building Department, an Aquifer Impact Assessment is not required.”* That goes back at the time with Zen & John Batz. The Code reads that if an Aquifer Impact Assessment is required, it should be based on the knowledge of the Building Department. We put that note on there. Looking at it again tonight, this applies to Major subdivisions. I think this is a Minor subdivision. I think we should strike it.

Mr. Bollenbach: This is for a Preliminary Approval.

Kirk Rother: But this is for 4-Lots.

Mr. Bollenbach: You have 4-Lots here. Plus the other one makes 5-Lots. It is technically a Major subdivision. We could put verbiage in here that the Aquifer Impact Statement is not required.

Kirk Rother: It is on there already. Laura is going to clarify that.

Laura Barca: The language on there says it is not. Does the Planning Board need to grant a waiver? How does that work.

Mr. Astorino: No.

Laura Barca: Who makes the decision on that?

Mr. Bollenbach: That would be through the Engineer and the Building Department.

Laura Barca: Ok.

Mr. Bollenbach: You will need to take a look to see if an Aquifer Impact Assessment is warranted. I believe in this case, it is not.

Laura Barca: I don't think it is either.

Mr. Astorino: Maybe we could get some clarification from your end.

Laura Barca: Ok.

Kirk Rother: There are a couple of comments on here about the easement for the marginal access road. That would be Comment #29:

Comment #28: Proper documentation should be added to the plan to ensure that the marginal access road alignment is consistent with adjacent lots.

Comment #29: Easement descriptions and proper documentation for the future marginal access road must be submitted.

Kirk Rother: I just want to make the Board aware that was recorded already. Do you remember that?

Mr. Bollenbach: You will need to put the Liber and Page.

Laura Barca: I have to make sure it is not a floating marginal access road.

Mr. Bollenbach: I believe we have it located along that boundary line. It could be modified in the future.

Kirk Rother: We created a floating marginal access road. It has a specific Schedule A.

Mr. Showalter: It mentions that location.

Mr. Astorino: Exactly.

Kirk Rother: I think the floating element on it was just like what John had said. It is by mutual consent by the Town and the Applicant.

Mr. Bollenbach: I think that might need to be revisited. It won't be able to be located floating into the farm area any longer if the PDR goes through. But, it still has flexibility that it could still move within the CB zone area.

Mr. Astorino: Ok.

Laura Barca: John, if that has been recorded, is it in A Declaration that could be shown on the plans?

Mr. Bollenbach: Yes.

Kirk Rother: I don't think the actual language of the Declaration is on the plan. It is just a map reference.

Mr. Bollenbach: We could add that to Comment #30 about the marginal access.

Kirk Rother: Ok. I want to talk about Comment #31.

Comment #30: The declaration information for the Ridgeline Overlay District, Aquifer Protection Overlay District, and Agricultural Overlay District will need to be shown.

Comment #31: A private roadway easement and agreement must be prepared and submitted to the Attorney.

Kirk Rother: Looking at the map, these two lots in the middle, the driveways shared a common curb cut onto the County Road. The common part of it is entirely within the County's R.O.W. As soon as they hit the County's R.O.W., they peel off. My position is and I have done this on a lot of driveways and on County Roads. The County is actually going to want it. It is not a common driveway. One guy has his own 10 feet and the other guy has his own 10 feet.

Mr. Astorino: They meet at the County's R.O.W.

Kirk Rother: I bring this up because Comment #31 is a roadway easement agreement and Comment #33 is about a bond.

Mr. Astorino: John, could we strike that?

Mr. Bollenbach: Yes.

Mr. Astorino: We could strike Comments # 31 and #33.

Mr. McConnell: Who is responsible for the driveway that is crossing over the County's easement?

Mr. Astorino: It is the County. It is the County's R.O.W.

Mr. Bollenbach: The lot owners are responsible. It is split down the middle.

Comment #32: Surveyor to certify that iron rods have been set at all property corners.

Comment #33: A bond for the common driveway shall be determined for Lots 2 and 3 to the Planning Board Engineer's specification.

Mr. Astorino: As we had discussed, we could strike Comment #33.

Comment #34: Payment of parkland fees for 3 lots.

Kirk Rother: Is it applicable for the commercial lot?

Mr. Bollenbach: I would have to take a look at it. I think the Parkland Fee was either for the lots or the dwelling units or whatever is greater. I will take a look at it. There have been some waivers for the agricultural lot. You are just having the 3 new ones. The remainder is the agricultural lot. You are not paying on it.

Kirk Rother: It is the Commercial Lot, 2-Residential Lots + the Remainder.

Mr. Bollenbach: I will take a look at it.

Kirk Rother: You have to remember that there is one existing. I would think since there are 2 new residential lots.

Mr. McConnell: That is what John had mentioned. It may be lots, not residential lots.

Mr. Bollenbach: Correct.

Mr. Astorino: Ok. Does anybody have any further comments?

Connie Sardo: I have a comment, Comment #35.

Comment #35: Payment of all fees.

Connie Sardo: I have been sending letters to the Pennings about their escrow. I have not heard or received anything from them. They are lucky to be on tonight's agenda. There was just enough in the account for this review.

Mr. Astorino: That is an easy one to take care of. If we don't see a check soon, they will be off. Please relay that to your client. Ted, did you want to say something?

Mr. Fink: Because this goes back, there are still references on the plan regarding the DS zoning district. They should be updated to the CB zoning district. That was changed in the year 2008.

Mr. Bollenbach: We also need AP-O verbiage.

Kirk Rother: It is on there.

Mr. Bollenbach: Ok.

Mr. Astorino: Do any Board members or Professionals have any other comments?  
Connie, just a note for the record, where are we with the escrow?

Connie Sardo: It is way below the 40% mark.

Mr. Astorino: Kirk, please let them know. If the Professionals stops review because of deficient escrow, this will not get anywhere.

Laura Barca: We already received the email stating please do not work on this project.

Mr. Astorino: Ok. Kirk, please inform your clients.

Mr. Bollenbach: Also, the PDR funding will be expiring.

Mr. Astorino: Ok. Let's keep the ball rolling on this.

Kirk Rother: I will relay the message to the applicants.

Mr. Astorino: This is a Public Hearing. If there is anyone in the audience wishing to address the Orchard Valley application, please rise and state your name for the record. Let the record show no public comment.

Mr. McConnell makes a motion for the Negative Declaration.

Seconded by Mr. Showalter. The following Resolution was carried 5-Ayes.

617.12(b)

**State Environmental Quality Review (SEQR)**  
Resolution Authorizing Filing of Negative Declaration

**Name of Action:** Orchard Valley Subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed four lot subdivision, Town of Warwick, Orange County, New York, and

**Whereas**, there are other involved agencies pursuant to SEQR, including the Orange County Department of Public Works, which will conduct its own SEQR review, and

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated October 25, 2011, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

**Now Therefore Be It Resolved**, that the Planning Board adopts the findings and conclusions relating to probable environmental effects contained within the attached EAF and Negative Declaration and authorizes the Chair to execute the EAF and file the Negative Declaration in accordance with the applicable provisions of law, and

**Be It Further Resolved**, that the Planning Board authorizes the Chair to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

Mr. McConnell makes a motion to close the public hearing.

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

Mr. Kennedy makes a motion on the Steve Pennings, Et. Al c/o Richard Pennings application, granting Preliminary Approval of a proposed 3-Lot Subdivision + 1-Commercial Lot entitled, "**Orchard Valley**", situated on tax parcel S 51 B 1 L 36; parcel located along the southern side of State Route 94 at the intersection of Warwick Turnpike (CR 12), in the RU/CB Zones, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on, February 20, 2013.

Seconded by Mr. Ruszkiewicz. Motion carried 5-Ayes.

Mr. Astorino: Do you think we would have the response letters from OCDPW & NYSDOT before the next meeting?

Connie Sardo: They have 30 days to respond.

Mr. Astorino: When is the 30 days?

Connie Sardo: That would be for the March 20<sup>th</sup> meeting.

Mr. Astorino: We could set them for the March 20<sup>th</sup> meeting.

Mr. Bollenbach: We didn't have any public comment on this application. Do you want to waive the final public hearing? We can't take final action tonight until we get some other information and hear from OCDPW & NYSDOT. Or, you might want to consider waiving it the next time we meet.

Kirk Rother: We ask to waive the final public hearing.

Mr. Astorino: I don't have a problem with that.

**Mr. Ruszkiewicz makes a motion to waive the Final Public Hearing.**

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

Mr. Astorino: We will put Orchard Valley on the March 20, 2013 Planning Board meeting agenda.

Connie Sardo: I would like you to send a letter stating that the applicants want to be on the March 20<sup>th</sup> meeting.

Kirk Rother: We will submit new maps. Thank you.

**Review of Submitted Maps:****McFarland Subdivision #3 “Amended” Final Approval**

Application for *Amended* Final Approval of a proposed 4-Lot (Major) subdivision, situated on tax parcel S 54 B 1 L 25.13; parcel located on the northern side of State Highway 17A 300± feet east of Forester Avenue, in the SM zone, of the Town of Warwick, County of Orange, State of New York. Original Final Approval was granted on 11/2/11.

Representing the applicant: Karen Emmerich and Brian Friedler 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: 11/01/10 letter: close attention to potential archeological concerns; 05/31/11 It is believed that there are wetlands/streams that should be mapped and protected; 09/20/11 No comments.
4. Architectural Review Board comments: 05/31/11 email: no comments at this time; 02/19/13 no comments at this time
5. OCPD: 11/12/10, two advisory comments relating to pond maintenance and pedestrian access (sidewalks).
6. Applicant to obtain notarized letter from Warwick Grove Company for driveway access to Lots 1 and 4.
7. General agreement for the location of the water transmission line easement from Well #3 to the microfiltration facility with an understanding that the final location will be agreed upon by the involved parties (Village of Warwick & future owners of Lots 3 & 4).
8. A note should be added to the plans stating that any future access from Lot 4 along McFarland Drive must be coordinated with the Village of Warwick.
9. The easement has been agreed to be 20-ft by 134-ft, but the easement needs to be shown and described as being from the property line and not from the edge of pavement.
10. The Applicant must comply with all comments in the Village of Warwick Planning Board letter to the Town of Warwick Planning Board, dated 11/19/10.
11. Sheet 1, Notes 19 and 20 were added, but it seems like Lots 3 and 4 were switched in the notes.
12. A note should be added to the plan stating that prior to a Certificate of Occupancy being issued that fence line shall be removed from the lot.
13. There is an existing culvert (8” PVC pipe) extending from the pond on Lot 3 onto Lot 2; an easement agreement must be prepared and submitted for future maintenance.
14. A maintenance agreement for the pond on Lots 1 and 2 must be prepared and submitted.
15. There is a drainage corridor that travels from Route 17A to McFarland Drive. These drainage features must remain in a free-flowing manner. An overall maintenance easement and/or agreement should be in place for Lots 1, 2, and 3.
16. Two tie-in lines should be added between the existing iron pins at the corners of the easterly property boundary and the Village of Warwick parcel, as shown in **Attachment 1**.

17. The 24" water main easement shall be described as a 20-ft easement centered on the alignment as marked out by the Village of Warwick on (insert date) and surveyed by John McGloin on (insert date).
18. The Stormwater Better Site Design Tree Planting (§164-47.10.E(3)(c)[1][r]) should be used with the tree planting requirements from the Ridgeline Overlay section (§164-47.1(3)(c)[1]). Applicant should clarify how the existing and proposed trees on each site comply with these requirements.
19. There are several references on Sheet 6 of 6 (SWPPP) stating that disturbed areas must be seeded within 14 days; this requirement should be changed to 7 days (NYSDEC GP-0-10-001).
20. A Landscaping Bond for the trees and shrubs to be planted shall be determined to the Planning Board Engineer's specification.
21. The declaration information for the Agricultural and Aquifer Notes will need to be shown on the drawing.
22. Surveyor to certify that iron rods have been set at all property corners.
23. Payment of Recreation Fee.
24. Payment of all fees.

Attachments (1): 1) locations of two tie-in lines where metes and bounds should be added

The following comment submitted by the Conservation Board:

McFarland Subdivision #3 "Amended" Final Approval – None submitted.

The following comment submitted by the ARB:

McFarland Subdivision #3 "Amended" Final Approval – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has already adopted a Negative Declaration on this project. The only reason SEQR would need to be reopened if there were any changes in the project that would lead to an adverse impact. There are none. SEQR does not need to be reopened.

Comment #2: Applicant to discuss project.

Mr. Bollenbach: There is no need to. They are just back because of the new Stormwater Regulations.

Mr. Astorino: Ok. We will list Comments 3 through 24 for the record. Laura, please explain to us where we are with the Stormwater Regulations. That is why they are here to amend this.

Laura Barca: They comply with the new Stormwater Regulations that the Town Board adopted.

Mr. Astorino: Does everything meet the requirements?

Laura Barca: Yes.

Mr. Astorino: Do any Board members or Professionals have any comments? We all know the project. They comply with the Stormwater Regulations. We need a motion now to amend this approval.

Comment #3: Conservation Board comments: 11/01/10 letter: close attention to potential archeological concerns; 05/31/11 It is believed that there are wetlands/streams that should be mapped and protected; 09/20/11 No comments.

Comment #4: Architectural Review Board comments: 05/31/11 email: no comments at this time; 02/19/13 no comments at this time

Comment #5: OCPD: 11/12/10, two advisory comments relating to pond maintenance and pedestrian access (sidewalks).

Comment #6: Applicant to obtain notarized letter from Warwick Grove Company for driveway access to Lots 1 and 4.

Comment #7: General agreement for the location of the water transmission line easement from Well #3 to the microfiltration facility with an understanding that the final location will be agreed upon by the involved parties (Village of Warwick & future owners of Lots 3 & 4).

Comment #8: A note should be added to the plans stating that any future access from Lot 4 along McFarland Drive must be coordinated with the Village of Warwick.

Comment #9: The easement has been agreed to be 20-ft by 134-ft, but the easement needs to be shown and described as being from the property line and not from the edge of pavement.

Comment #10: The Applicant must comply with all comments in the Village of Warwick Planning Board letter to the Town of Warwick Planning Board, dated 11/19/10.

Comment #11: Sheet 1, Notes 19 and 20 were added, but it seems like Lots 3 and 4 were switched in the notes.

Comment #12: A note should be added to the plan stating that prior to a Certificate of Occupancy being issued that fence line shall be removed from the lot.

Comment #13: There is an existing culvert (8" PVC pipe) extending from the pond on Lot 3 onto Lot 2; an easement agreement must be prepared and submitted for future maintenance.

Comment #14: A maintenance agreement for the pond on Lots 1 and 2 must be prepared and submitted.

Comment #15: There is a drainage corridor that travels from Route 17A to McFarland Drive. These drainage features must remain in a free-flowing manner. An overall maintenance easement and/or agreement should be in place for Lots 1, 2, and 3.

Comment #16: Two tie-in lines should be added between the existing iron pins at the corners of the easterly property boundary and the Village of Warwick parcel, as shown in **Attachment 1**.

Comment #17: The 24" water main easement shall be described as a 20-ft easement centered on the alignment as marked out by the Village of Warwick on (insert date) and surveyed by John McGloin on (insert date).

Comment #18: The Stormwater Better Site Design Tree Planting (§164-47.10.E(3)(c)[1][r]) should be used with the tree planting requirements from the Ridgeline Overlay section (§164-47.1(3)(c)[1]). Applicant should clarify how the existing and proposed trees on each site comply with these requirements.

Comment #19: There are several references on Sheet 6 of 6 (SWPPP) stating that disturbed areas must be seeded within 14 days; this requirement should be changed to 7 days (NYSDEC GP-0-10-001).

Comment #20: A Landscaping Bond for the trees and shrubs to be planted shall be determined to the Planning Board Engineer's specification.

Comment #21: The declaration information for the Agricultural and Aquifer Notes will need to be shown on the drawing.

Comment #22: Surveyor to certify that iron rods have been set at all property corners.

Comment #23: Payment of Recreation Fee.

Comment #24: Payment of all fees.

Attachments (1): 1) locations of two tie-in lines where metes and bounds should be added

Mr. Kennedy makes a motion on the McFarland Subdivision #3 application, granting Final Approval of a proposed 4-Lot subdivision, situated on tax parcel S 54 B 1 L 25.13; parcel located on the northern side of State Highway 17A 300± feet east of Forester Avenue, in the SM zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on November 2, 2011.

Approval is granted to the following conditions:

1. Applicant to obtain Authorization for driveway access to Lots 1 and 4 from McFarland Drive.
2. A note should be added to the plans stating that any future access from Lot 4 along McFarland Drive must be coordinated with the Village of Warwick.
3. The easement has been agreed to be 20-ft by 134-ft, but the easement needs to be shown and described as being from the property line and not from the edge of pavement.
4. The Applicant must comply with all comments in the Village of Warwick Planning Board letter to the Town of Warwick Planning Board, dated 11/19/10.
5. Sheet 1, Notes 19 and 20 were added, but it seems like Lots 3 and 4 were switched in the notes.
6. A note should be added to the plan stating that prior to a Certificate of Occupancy being issued for Lots 1 or 2 that the barbed wire fence line shall be removed from the lot.
7. There is an existing culvert (8" PVC pipe) extending from the pond on Lot 3 onto Lot 2; an easement agreement must be prepared and submitted for future maintenance.
8. A maintenance agreement for the pond on Lots 1 and 2 must be prepared and submitted.
9. There is a drainage corridor that travels from Route 17A to McFarland Drive. These drainage features must remain in a free-flowing manner. An overall maintenance easement and/or agreement should be in place for Lots 1, 2, and 3.
10. Two tie-in lines should be added between the existing iron pins at the corners of the easterly property boundary and the Village of Warwick parcel, as shown in **Attachment 1**.
11. The 24" water main easement shall be described as a 20-ft easement centered on the alignment as marked out by the Village of Warwick on (insert date) and surveyed by John McGloin on (insert date).
12. The Stormwater Better Site Design Tree Planting (§164-47.10.E(3)(c)[1][r]) should be used with the tree planting requirements from the Ridgeline Overlay section (§164-47.1(3)(c)[1]). Applicant should clarify how the existing and proposed trees on each site comply with these requirements.
13. There are several references on Sheet 6 of 6 (SWPPP) stating that disturbed areas must be seeded within 14 days; this requirement should be changed to 7 days (NYSDEC GP-0-10-001).
14. A Landscaping Bond for the trees and shrubs to be planted shall be determined to the Planning Board Engineer's specification.

15. The declaration information for the Agricultural and Aquifer Notes will need to be shown on the drawing.
16. Surveyor to certify that iron rods have been set at all property corners.
17. Payment of Parkland Fee for the two New Residential Lots #1 and #2.
18. Payment of all fees.

Attachments (1): 1) locations of two tie-in lines where metes and bounds should be added

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

Karen Emmerich: Thank you.

Brian Friedler: Thank you.

**Other Considerations:**

1. Planning Board Minutes of 12/19/12 for Planning Board's Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 12/19/12.

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

2. **Kirk Rother Subdivision** – Letter from Kirk Rother, P.E., dated 1/15/13 addressed to the Planning Board in regards to the Kirk Rother Subdivision – requesting a 6-Month Extension on 4<sup>th</sup> Re-Approval of Final Approval for a proposed 2-Lot Cluster subdivision, situated on tax parcel SBL # 42-1-110.4, parcel located on the western side of C.R. 1, 1885 feet north of Waterbury Road, in the RU zone. Conditional Final Approval was granted on, 7/16/08. The 4<sup>th</sup> Re-Approval of Final Approval was granted on, 8/1/12 became effective on, 7/16/12. *The Applicant has stated that the conditions of final approval have been satisfied with the exception of the legal documentation. The applicant is currently waiting for the attorney to prepare the required documents.* The 6-Month Extension on 4<sup>th</sup> Re-Approval of Final Approval becomes effective on, 1/16/13.

Mr. McConnell makes a motion on the Kirk Rother Subdivision, granting granted a 6-Month Extension on 4<sup>th</sup> Re-Approval of Final Approval of a proposed 2-Lot Cluster subdivision. (SBL # 42-1-110.4). Conditional Final Approval was granted on, 7/16/08. The 4<sup>th</sup> Re-Approval of Final Approval was granted on 8/1/12 became effective on, 7/16/12.

The 6-Month Extension becomes effective on, 1/16/13.

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

3. **Cedar Ridge Subdivision** – Letter from Kirk Rother, P.E., dated 1/15/13 addressed to the Planning Board in regards to the Cedar Ridge Subdivision – requesting a 6-Month Extension on 4<sup>th</sup> Re-Approval of Final Approval for a proposed 36-Lot Cluster subdivision, situated on tax parcel SBL #7-2-51.2; parcel located along the south side of Wheeler Road approximately 1500 feet west of Intersection with C.R. 41, in the RU zone. Conditional Final Approval was granted on, 7/16/08. The 4<sup>th</sup> Re-Approval of Final Approval was granted on 8/1/12 became effective on, 7/16/12. *The Applicant has stated that given the current economic climate, the applicant is unable to satisfy the financial conditions associated with final approval, such as payment of parkland fees and posting of a road bond.* The 6-Month Extension on 4<sup>th</sup> Re-Approval of Final Approval becomes effective on, 1/16/13.

Mr. Ruskiewicz makes a motion on the Cedar Ridge Subdivision, granting a 6-Month Extension on 4<sup>th</sup> Re-Approval of Final Approval of a proposed 36-Lot Cluster subdivision. SBL # 7-2-51.2. Conditional Final Approval was granted on, 7/16/08. The 4<sup>th</sup> Re-Approval of Final Approval was granted on, 8/1/12 became effective on, 7/16/12.

The 6-Month Extension becomes effective on, 1/16/13.

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

Mr. McConnell: What is the amount of the parkland fees?

Mr. Bollenbach: It is \$2500.00 per lot or dwelling unit, whichever is greater.

Mr. McConnell: Ok.

4. **Warwick Isle Subdivision** – Letter from Kirk Rother, P.E., dated 1/15/13 addressed to the Planning Board in regards to the Warwick Isle Subdivision – requesting a 6-Month Extension on the Re-Approval of Final Approval for filing Section I to consist of 7-Lot Cluster Subdivision including a Special Use Permit for the 1-Affordable Home, Lot #5, situated on tax parcel SBL # 3-1-6.21; parcel located on the northern side of Merritts Island Road at the intersection with C.R. 1, in the SL zone. Conditional Final Approval for Section I was granted on, 4/6/11. Re-Approval of Final Approval for Section I was granted on, 4/18/12 became effective on, 4/6/12. *The Applicant has stated that they are currently in the process of securing an Amended DOH application for the Sectionalized Plan.* The 6-Month Extension on the Re-Approval of Final Approval for Section I becomes effective, on, 10/6/12.

Mr. McConnell makes a motion on the Warwick Isle Subdivision, granting a 6-Month Extension on the Re-Approval of Final Approval for Section 1 to consist of 7-Lot Cluster Subdivision including a Special Use Permit for the 1-Affordable Home, Lot #5, situated on tax parcel SBL # 3-1-6.21; parcel located on the northern side of Merritts Island Road at the intersection with C.R. 1, in the SL zone. Approval for filing in Sections and Conditional Final Approval for Section I was granted on, 4/6/11. Re-Approval of Final Approval for Section I was granted on 4/18/12 became effective on 4/6/12.

The 6-Month Extension on the Re-Approval of Final Approval for Section I becomes effective on, 10/6/12.

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

5. **Rich Brady Subdivision** – Letter from Karen Emmerich, Lehman & Getz Engineering, dated 1/22/13 addressed to the Planning Board in regards to the Rich Brady Subdivision – requesting **“Re-Approval”** of Final Approval of a proposed 2-Lot subdivision, situated on tax parcel SBL # 64-1-54; parcel located on the southern side of Brady Road approximately 730 feet southwest of Bowen Road, in the MT zone. Conditional Final Approval was granted on, 12/7/11. The 6-Month Extension was granted on, 5/16/12 became effective on, 6/7/12. *The applicant has stated that they have just submitted the Parkland Fee to the Town which was the last outstanding item before the maps could be sign.* The Re-Approval of Final Approval becomes effective on, 12/7/12.

Mr. Kennedy makes a motion on the Rich Brady Subdivision, granting **“Re-Approval”** of Final Approval for a proposed 2-Lot subdivision, situated on tax parcel S 64 B 1 L 54; parcel located on the southern side of Brady Road approximately 730 feet southwest of Bowen Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 12/7/11. (See attached)

The Re-Approval of Final Approval becomes effective on, 12/7/12.

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

6. Planning Board to discuss Canceling the 2/25/13 Work Session & 3/6/13 Planning Board Meeting due to no submittals.

Mr. McConnell makes a motion to cancel the 2/25/13 Work Session & 3/6/13 Planning Board Meeting.

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

### **Correspondences:**

1. Memo from Supervisor Sweeton, dated 1/25/13 addressed to the Planning Board – in regards to local laws from Section 164-20.

Mr. Astorino: We discussed this at the Work Session. It is in regards to the fracking thing. We have it here. Ted, do we need a motion on that?

Mr. Fink: Yes.

Mr. McConnell makes a motion to forward the recommendation to the Town Board.

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

**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. Ruskiewicz makes a motion to adjourn the February 20, 2013 Planning Board Meeting.**

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