

TOWN OF WARWICK PLANNING BOARD

April 18, 2012

Members present: Chairman, Benjamin Astorino  
Roger Showalter, Vice-Chairman  
Dennis McConnell, Beau Kennedy,  
Paul Ruskiewicz, 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, April 18, 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.

**PUBLIC HEARING OF Church Communities NY., Inc.**

Application for Site Plan Approval for a Timber Harvest Permit of a Non-Commercial Forest stand improvements, entitled as Bellvale Community Forest, situated on tax parcels S 47 B 1 L 2.2 & 100; project located on the eastern side of Bellvale Lakes Road 200 feet north of Rabbitt Hill Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Dave Mercer and John Burleson, Applicants.

Connie Sardo: Do you have the certified mailings for the public hearing?

John Burleson: No. I forgot them at the office.

Connie Sardo: Ok. Please drop them off to the Planning office as soon as you can.

John Burleson: Ok. I will get them to you. I apologize for that.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments – 04/04/12; Applicant should take great care with erosion control measures; overall plan and anticipated schedule
4. Architectural Review Board comments – pending
5. OC Planning Department – 03/08/12; advisory comment about potential Indiana Bat habitat; advise town that tree clearing should occur between October 1<sup>st</sup> and March 30<sup>th</sup>.
6. During timber harvest operations, a quarterly report must be completed and submitted the following week to the Planning Board Engineer. This report must contain the following information for trees over 12-in. DBH:
  - a. Number and species of trees cut down.

- b. Purpose for tree removal.
- c. Estimate of firewood removal in cords.
7. The Applicant has agreed to take appropriate stabilization measures, per Planning Board Engineer, if a major storm event is expected in the project area and there is disturbed soil that has not been stabilized.
8. The proposed landing areas and haul roads will be disturbing more than 0.25 acre; Applicant must obtain a building department permit in accordance with §150-4.
9. Establish an inspection schedule and escrow account for Planning Board Engineer to conduct inspections at the site during times of active harvest, at the discretion of the Planning Board Engineer.
10. A reclamation bond in the amount of \$3,000 shall be provided until all areas have been stabilized in accordance with the following NYSDEC definition of Final Stabilization: “all soil disturbance activities have ceased and a uniform, perennial vegetative cover with a density of 80% over the entire previous surface has been established; or other equivalent stabilization measures, such as permanent landscape mulches, rock rip-rap or washed/crushed stone have been applied on all disturbed areas that are not covered by permanent structures, concrete or pavement.” (GP-0-10-001, Appendix A).
11. Payment of all fees.

The following comment submitted by the Conservation Board:

Church Communities NY., Inc. – None submitted.

The following comment submitted by the ARB:

Church Communities NY., Inc. – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has declared Lead Agency. We have been reviewing the application with the short EAF. It is an Unlisted Action. The applicant has provided all of the information that we requested. I have prepared a Draft Negative Declaration for the Board’s consideration.

Comment #2: Applicant to discuss project.

Dave Mercer: Looking at the diagrams, this is our property. Warwick is shaded in the white area. The dark green area is the area affected by our proposed improvements of the woods. When we first purchased the property there was a pond that already had been dug. When we bought the property, we started to clean up the trash in the area. We then planted 300 trees. With the help of a local Forester, we cut down the dead and dying trees. We then fixed up the road. Looking at the profile, this is a profile of going from the top of the mountain and down. The water coming down the road, more like a ditch, went down into a gully. Over the next 2 years, we worked on the road to bring it up to the DEC’s Best Management Practices for water quality. We installed 13 culverts. What this did was take the water and shift it away as much as possible. The water from below the pond goes down into Wickham Lake. With the DEC Best Management Practices, we have also taken it a step further. What we are proposing to do is take advice from the DEC Forester that we had engaged in approximately 2 years ago. He refers to this plan which covers our entire property which is not just Warwick. Their Best Management

Practices that they want us to embark on is taking trees and releasing it on all four quadrants. Our Moto is “Worst First Best Last”.

Mr. McConnell: When you say releasing it, do you mean releasing it from encroaching other trees?

John Burleson: Yes. We mean from other trees.

Mr. McConnell: Ok.

John Burleson: Our Moto is “Worst First Best Last”. That means if you have a problem with water quality or a problem with erosion or the woods, we would do the worst first and the best last. That is how we would go about it. If you are wondering what a crop tree is, if you take a look at this picture of a crop tree the crowns are interfering with one another. First you would have to decide if a tree is a crop tree. You would also have a tree that has long lived quality. Those trees are the ones that you want. Healthy trees have good esthetics. The environment is affected if you choose a tree which is a traditional oak tree. That type of tree is the one that would be esthetically pleasing. We are looking to do a Sustainable Forest based on the DEC’s plan. We want to get a lot of wood out of this. We need all of that wood.

Comment #3: Conservation Board comments – 04/04/12; Applicant should take great care with erosion control measures; overall plan and anticipated schedule

Comment #4: Architectural Review Board comments – pending

Comment #5: OC Planning Department – 03/08/12; advisory comment about potential Indiana Bat habitat; advise town that tree clearing should occur between October 1<sup>st</sup> and March 30<sup>th</sup>.

Mr. Astorino: Is that just on the select trees?

Mr. Bollenbach: That is primarily for the Shag Bark Hickory trees.

Mr. Fink: Yes.

Comment #6: During timber harvest operations, a quarterly report must be completed and submitted the following week to the Planning Board Engineer. This report must contain the following information for trees over 12-in. DBH:

- a. Number and species of trees cut down.
- b. Purpose for tree removal.
- c. Estimate of firewood removal in cords.

John Burleson: Yes.

Comment #7: The Applicant has agreed to take appropriate stabilization measures, per Planning Board Engineer, if a major storm event is expected in the project area and there is disturbed soil that has not been stabilized.

Mr. Astorino: Laura, this goes above and beyond the erosion control. They will have a silt fence up there regardless.

Laura Barca: If there is disturbed soil and a large storm is expected, they would have to go above and beyond the erosion control measures. It is in the Best Management Practices.

Mr. Astorino: Ok.

Mr. McConnell: Laura, how long would it take to put in place these appropriate stabilization measures? If they knew a major storm was coming let us say by Saturday, would it be realistic that they could get it done by then?

Laura Barca: The only area that is proposed to have ground disturbance is the wildlife clearing area. It is not that big of an area. I would say yes that they should be able to do it.

Mr. McConnell: Ok.

Mr. Astorino: The measures should be in place from the start. If more measures need to be taken, then that will be done.

Laura Barca: Right.

Mr. McConnell: Ok. Should this comment reflect appropriate additional stabilization measures?

Mr. Bollenbach: Yes. We could add that.

Mr. Astorino: I agree.

Mr. McConnell: Ok.

Comment #8: The proposed landing areas and haul roads will be disturbing more than 0.25 acre; Applicant must obtain a building department permit in accordance with §150-4.

John Burleson: Ok.

Comment #9: Establish an inspection schedule and escrow account for Planning Board Engineer to conduct inspections at the site during times of active harvest, at the discretion of the Planning Board Engineer.

John Burleson: Ok.

Comment #10: A reclamation bond in the amount of \$3,000 shall be provided until all areas have been stabilized in accordance with the following NYSDEC definition of Final Stabilization: "all soil disturbance activities have ceased and a uniform, perennial vegetative cover with a density of 80% over the entire previous surface has been established; or other equivalent stabilization measures, such as permanent landscape mulches, rock rip-rap or washed/crushed stone have been applied on all disturbed areas that are not covered by permanent structures, concrete or pavement." (GP-0-10-001, Appendix A).

Mr. Astorino: The wildlife area is where you would be doing your major disturbance. If I am not mistaken, when you are harvesting the trees the stumps would remain. Is that correct?

Dave Mercer: Right.

Mr. Bollenbach: I just want to state for clarification that the amount of \$3,000.00 is before the Town Board to reevaluate. The Town Board may reduce that.

Mr. Astorino: That would be their call.

Mr. Bollenbach: It would be the Town Board's call. I just wanted everyone to know that.

Mr. Astorino: We will leave this amount as is.

Mr. Bollenbach: Correct.

Comment #11: Payment of all fees.

John Burleson: Yes.

Mr. Astorino: Do any Board members or Professionals have any comments? Does anyone have anything about the site visit?

Mr. Bollenbach: Did everything look good out there?

Mr. Astorino: Yes. We walked the entire site. It looked good.

Mr. McConnell: I was impressed with the work that had been done out there and the obvious vision that this Organization has for stewardship of the land.

Mr. Astorino: This is a Public Hearing. If there is anyone in the audience wishing to address the Bellvale Forest Timber Harvest application, please rise and state your name for the record.

Randolph Demercado: Looking at the presentation that they had just given, it looks very pretty. Who went to the site visit?

Mr. Astorino: The whole Board went to the site visit.

Randolph Demercado: Ok. I have brought some photos that I have taken that show erosion onto my property from all the water coming from that mountain. That road that they were talking about is not a road.

Mr. Demercado presents to the Board photos that he had taken showing erosion onto his property and his neighbors property.

Randolph Demercado: This was something that was done many years ago when I first moved up here that somebody was allowed to do logging on top of that mountain. What happened was from the logging that went on. The mountain started washing down and eroding everything. That culvert that was there, I use to walk up that mountain before they came. This is what they are doing now. That is what is causing the erosion on my property and my neighbor's property. Looking at the applicant's presentation pictures, that is supposed to be nice and pretty. What they are really trying to do here is get a grant from the Government to harvest maple syrup. That is what the business is about. This is a business. It has nothing to do with conservation. It has nothing to do with anything. It has to do with them getting grant money from the Government. I have spoken to the DEC about this. They are going to send someone out to look at this property again.

Mr. Astorino: We had met with the DEC out on this site.

Randolph Demercado: I spoke to the DEC today. Someone else is going to come out and look at all this stuff here. When we had the last two storms, we had so much water coming down the mountain. That happened because of what they had done.

Mr. Demercado goes on to explain to the Board all the mud that came down the mountain from the last two major storms Irene and Lee. All of that mud and runoff wound up on his property. He mentions that all of that mud and runoff almost washed out Blue Spruce Trail Road. Mr. Demercado also mentions that Bellvale Forest had to do something to fix this problem so they wound up putting in another culvert pipe on Blue Spruce Trail to handle the water that was coming off the mountain. Mr. Astorino asks the applicant if they own Blue Spruce Trail. Mr. Mercer said that they only own a R.O.W. on Blue Spruce Trail. Mr. Demercado continues to show photos to the Board of the runoff and erosion problems and explains to the Board that the applicant wants to have a maple syrup business by receiving grant money from the Government, which has nothing to do with conservation. Mr. Astorino explains to Mr. Demercado that is out of the Planning Board's purview. If the applicant wants to have a business, that would be their issue. Mr. Astorino goes on to explain to Mr. Demercado that we are here for the application that is before us. We are here to make sure that what, when and if it gets done that it is done properly according to our Code. We have a Code in the Town of Warwick. We follow that Code. Mr. Astorino goes on explaining that our Professionals have to talk with the DEC and that they have to follow the DEC Stewardship Plan. The applicant also has to follow above and beyond that from what we ask them to do. If the applicant wants to have a maple syrup business, we can't control that. That is not our issue here. Mr. Demercado goes on explaining to the Board that when the applicant purchased this property the Planning Board gave them the ok to subdivide the property. They promised the Planning Board that there would be no development on this property. Mr. Demercado says that needs to be reviewed before anybody grants any permission. Mr. Demercado feels that he would be the one to suffer from this. He goes on to say that the cutting of these trees will make the property real ugly and it will keep causing water problems and erosion on his property. Mr. Demercado mentions again that from those 2 major storms that happened last year it caused a lot of muddy water coming down the mountain onto his property. He said that had never occurred before. Mr. McConnell explains to Mr. Demercado that those storms we don't normally see all the time. Mr. Demercado has been living here for 22 years. We were living there when 13.5" of rain fell down in two days. He said from that storm that no mud came down. He said that the mud came down from the lake on Gibson Hill Road and it went through the 4' culvert pipe into a pond

then into Wickham Lake. Mr. Demercado was told that the stream was a Class A stream and that nobody should be playing with it. Mr. Astorino mentions to Mr. Demercado that we have his comments. The whole Board has been out to the site. He explains that the Board had seen where the trees are proposed to be cut and they had seen the wildlife management area. The trees that are proposed to be cut the stumps would remain. It is not a clear cut nor is it a logging operation. Mr. Demercado goes on complaining that the applicant is doing clear cuts and logging. Mr. Astorino mentions that we have in our Code that allows Timber Harvest. It is not clear-cut. The applicant has to follow the DEC Guidelines and the Town Code. The stumps will remain. Mr. McConnell asks Mr. Demercado that when this problem started 2 years ago, did you go to the Building Department? Mr. Demercado tells Mr. McConnell that when the applicant had done the subdivision he had spoken to the Town Hall about it. He called the DEC. The DEC told him that they would send someone out. Mr. Demercado had gone to the Building Department and he had the Building Inspector and your Engineer go out to the site. Nobody had done anything about it. Mr. Demercado states that the property is a natural forest and that it should be left naturally.

Randolph Demercado: That \$3,000.00 dollars that they are supposed to put up that someone wants it reduced, what was that \$3,000.00 for?

Mr. Bollenbach: That is a Reclamation Bond to insure any skid trails or staging areas they would be reseeded and properly regraded.

Randolph Demercado: That is not being done. I would suggest that you come out to my property and I will show you what are in these pictures. I will show the Board what the applicant has done to this property.

Mr. Astorino: Ok. Thank you.

Mr. McConnell: If Mr. Demercado had called the DEC and asked them to inspect, perhaps we could get our Engineer to coordinate with them?

Laura Barca: Do you know who you spoke to at the DEC?

Randolph Demercado: I have the name written down on a pad. I have that pad on my desk at my office. They referred me to a couple of people. They talked about that they have a right to cut firewood on their property but they don't have the right to do a clear-cut for anything. There is so much acreage that they cannot cut beyond. Right now, they are pushing on some of those limits on what they had done so far. They do not pay any taxes in this Town. They keep causing problems. I pay taxes. They don't pay taxes.

Mr. Astorino: That has nothing to do with this Board. We will have our Engineer call the DEC.

Laura Barca: If you could, please let me know whom you contacted at the DEC. Did you speak to Doug Gaugler?

Randolph Demercado: No.

Laura Barca: Ok. Once you find out whom you spoke to, let me know.

Randolph Demercado: Ok. Those photos I showed to you tonight are not drawings. They are real pictures.

Mr. Astorino: Is there anyone else wishing to address the Bellvale Forest application? Let the record show no further public comment. Do any Board Members or Professionals have any other concerns?

Mr. McConnell: We have some concern here now that we might need some more information on it. Just to give this gentleman the benefit of doubt, we could coordinate something with the DEC.

Mr. Showalter: We need someone to go and look at that road. I agree with Dennis.

Mr. McConnell: I am looking at one of the comments here, and please correct me if I am wrong. It seems that we have a limitation of the tree clearing that it should occur between October 1<sup>st</sup> and March 30<sup>th</sup>.

Mr. Astorino: That is for the Indiana Bats.

Mr. McConnell: Yes. If we are prudent here, and just take a little bit more time to check with the DEC to see if they have any concerns. I know that we have spoken to a DEC Forester, but he is not necessarily looking at the road. I just want to give the gentleman that spoke the opportunity for us to gather enough information that we would be comfortable enough on making a decision. Let us get confirmation.

Mr. Bollenbach: Ted, with that issue outstanding, the Board cannot take action on SEQR. I would suggest the Board consider adjourning this public hearing to a specific date. By adjourning the public hearing to a specific date, it would not have to be re-noticed.

Mr. Astorino: Would that be the Board's pleasure?

Mr. Ruszkiewicz: Yes.

Mr. McConnell: Yes.

Mr. Astorino: Laura, could we get a correlation of where this gentleman's property is and the site that is to be disturbed that is before this application at this point? Mr. Demercado, please leave us your address with our Engineer. I would like to see a site map to see exactly what we are looking at.

Laura Barca: I could do an aerial.

Mr. Astorino: Thank you.

Mr. McConnell: There is nothing on those pictures that identify the location of where the picture was taken.

Mr. Astorino: Right.

Mr. Bollenbach: We will have Laura and the DEC take a look at that. We will go from there.

Mr. Astorino: Does the applicant have any comments? At this point with SEQR, it is the Board's decision to take a look at this issue. We will then move from there.

Dave Mercer: The only thing I would say is the area that we were talking about is the area that was pretty much clear-cut by the previous owner. He had come up through the area with an excavator. He had made a road.

John Burleson: I have no doubt that there was some water that moved down there from those two major storms Irene and Lee. The area that we were talking about is where it dips here.

Mr. Astorino: Ok. Laura will get in touch with the DEC and with Mr. Demercado. We will get some more information and topography. We will then go from there.

Laura Barca: Ok.

John Burleson: Ok.

Mr. Astorino: We will adjourn this public hearing to May 16, 2012.

**Mr. McConnell makes a motion to adjourn the Church Communities NY, Inc./Bellvale Community Forest Public Hearing to the May 16, 2012 Planning Board Meeting.**

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

Mr. Astorino: I just want to let the audience know that this public hearing has been rescheduled to May 16, 2012. You will not receive another notice. This is your notice.

John Burleson: Thank you.

Dave Mercer: Thank you.

**Review of Submitted Maps:*****John Kehoe Site Plan***

Application for Site Plan Approval for the construction and use of an addition to a single-family dwelling Located within “A Designated Protection Area” of Greenwood Lake, situated on tax parcel S 76 B 1 L 41; project located on the western side of West Cove Road (27 West Cove Road), in the SM zone, of the Town of Warwick.

Representing the applicant: John Kehoe and Denise Meininger, applicants.

The following review comment submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments – pending
4. Architectural Review Board comments – pending
5. Greenwood Lake Commission Comments – pending submittal by the Applicant
6. OCPD: pending submittal
7. The Agricultural Data Statement should select Site Plan as the Application Type.
8. The Town Assessor’s office has John Kehoe listed as the owner of the property; therefore Mr. Kehoe must sign all application forms and be notarized again (as applicable).
9. A dye test will have to be conducted by a licensed professional and witnessed the by Town of Warwick.
10. The Town Assessor has two bedrooms listed for this property; Applicant should submit a notarized letter stating that the current number of bedrooms is two and this is not proposed to change with the building modifications.
11. A site inspection may be necessary to review the existing site for stormwater concerns and building height.
12. The planning board has the option to waive the requirement for contours on the site plan; property is very level.
13. The information on the neighbors within 500-ft is not shown on the plan (e.g., address and section-block-lot). Applicant to provide list as a separate attachment.
14. This property is an existing small lot and therefore SM zoning and §164-45.1 apply. The following bulk requirements are satisfied and variances are not required:
  - a. Maximum lot coverage: existing 19.5%  
Allowed: 35% (§164-45.1), prop: 22.7%
  - b. Front yard setback: existing 52.3’  
Req’d: 30’ (SM zone), prop: 48.3’
  - c. Right side yard: existing 11.2’  
Req’d: 10’ (§164-45.1), prop: 14.5’
  - d. Left side yard: existing 19.4’  
Req’d: 10’ (§164-45.1), prop: 19.0’
  - e. Both side yards: existing 36.9’  
Req’d: 30’ (§164-45.1), prop: 33.5’
15. This property is an existing small lot and the following variances are required:
  - a. Minimum lot area: no change from survey
  - b. Req’d: 0.5 acre (SM zone), provided: 0.179 acre
  - c. Lot depth: no change from survey
  - d. Req’d: 100’ (SM zone), prop: 90’ & 104’

- e. Lot width: no change from survey
  - f. Req'd: 100' (SM zone), prop: 80.5' & 81'
  - g. Deck setback (toward the lake):
  - h. Req'd: 5' (§164-41.A(1)), prop: 2.1'
16. Surveyor to certify that iron rods have been set at all property corners.
17. Payment of all fees.

The following comment submitted by the Conservation Board:

John Kehoe Site Plan – None submitted.

The following comment submitted by the ARB:

John Kehoe Site Plan – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The application is subject to SEQR. The application needs a number of zoning variances. Assuming they get the variances, then when they come back before the Planning, we could then do SEQR.

Comment #2: Applicant to discuss project.

John Kehoe: We want to build a garage and a front door.

Mr. Astorino: How many bedrooms does the home have right now?

John Kehoe: When I bought the home from the Realtor, it was a 3-bedroom. Whether that was wrong from the beginning, I don't know.

Mr. Astorino: Right now, it is listed as a 3-bedroom home.

John Kehoe: Yes.

Mr. McConnell: To the best of your knowledge.

Laura Barca: The Assessor's office has it listed as a 2-bedroom home.

Denise Meininger: We bought it as a 3-bedroom. We didn't know that.

Comment #3: Conservation Board comments – pending

Comment #4: Architectural Review Board comments – pending

Comment #5: Greenwood Lake Commission Comments – pending submittal by the Applicant

Mr. Astorino: Do you know that you have to submit to the Greenwood Lake Bi-State Commission?

John Kehoe: We had done that.

Laura Barca: We need a copy of the letter that you had sent.

Connie Sardo: You gave me only the certified mailing receipt. There was no letter. I need a letter from you showing what you mailed out to them.

Denise Meininger: We just put in there John's name and address and for them to call him.

John Kehoe: She had called me that she received it.

Connie Sardo: But, what was inside the envelope?

Mr. Astorino: They just had their name and address.

John Kehoe: We put in there a copy of the plans.

Mr. Astorino: Ok. You gave them a copy of the plans.

John Kehoe: She asked me what she was supposed to do with them.

Laura Barca: Whom did you speak to?

Mr. Astorino: Laura, give Greenwood Lake Commission a call. Touch base with them.

Laura Barca: Ok.

Mr. Astorino: I will take care of it. We will touch base with them. Laura, remind me about that tomorrow.

Laura Barca: Ok.

Comment #6: OCPD: pending submittal

Comment #7: The Agricultural Data Statement should select Site Plan as the Application Type.

Denise Meininger: That has been done.

Connie Sardo: Yes. I received that.

Comment #8: The Town Assessor's office has John Kehoe listed as the owner of the property; therefore Mr. Kehoe must sign all application forms and be notarized again (as applicable).

Mr. Astorino: That needs to be resigned.

Connie Sardo: You could stop at the Planning office to do that.

Denise Meininger: Ok.

Comment #9: A dye test will have to be conducted by a licensed professional and witnessed the by Town of Warwick.

Denise Meininger: That is scheduled for tomorrow at 1:00 p.m.

Laura Barca: Ok.

Mr. Astorino: Laura, are you going to witness that?

Laura Barca: Yes. That will be done tomorrow at 1:00 p.m.

Mr. Astorino: Ok.

Comment #10: The Town Assessor has two bedrooms listed for this property; Applicant should submit a notarized letter stating that the current number of bedrooms is two and this is not proposed to change with the building modifications.

Denise Meininger: Do we put it as a 3-bedroom?

Mr. Astorino: That would be up to you.

Comment #11: A site inspection may be necessary to review the existing site for stormwater concerns and building height.

Mr. Astorino: Laura could do that.

Laura Barca: I could do that tomorrow at 1:00 p.m.

Mr. Astorino: Ok.

Comment #12: The planning board has the option to waive the requirement for contours on the site plan; property is very level.

Mr. Astorino: That makes sense.

Comment #13: The information on the neighbors within 500-ft is not shown on the plan (e.g., address and section-block-lot). Applicant to provide list as a separate attachment.

Connie Sardo: I have given you that list of property owners within 500-feet. You could attach that list to the plans.

John Kehoe: Ok.

Comment #14: This property is an existing small lot and therefore SM zoning and §164-45.1 apply. The following bulk requirements are satisfied and variances are not required:

- a. Maximum lot coverage: existing 19.5%  
Allowed: 35% (§164-45.1), prop: 22.7%
- b. Front yard setback: existing 52.3'  
Req'd: 30' (SM zone), prop: 48.3'

- c. Right side yard: existing 11.2'  
Req'd: 10' (§164-45.1), prop: 14.5'
- d. Left side yard: existing 19.4'  
Req'd: 10' (§164-45.1), prop: 19.0'
- e. Both side yards: existing 36.9'  
Req'd: 30' (§164-45.1), prop: 33.5'

Comment #15: This property is an existing small lot and the following variances are required:

- a. Minimum lot area: no change from survey
- b. Req'd: 0.5 acre (SM zone), provided: 0.179 acre
- c. Lot depth: no change from survey
- d. Req'd: 100' (SM zone), prop: 90' & 104'
- e. Lot width: no change from survey
- f. Req'd: 100' (SM zone), prop: 80.5' & 81'
- g. Deck setback (toward the lake):
- h. Req'd: 5' (§164-41.A(1)), prop: 2.1'

Connie Sardo: They are going to be before the ZBA on Monday, 4/23/12.

Laura Barca: I could summarize that for you. Regarding comment #14, since it is a small lot, sometimes the SM zoning is defined and sometimes the small lot which is §164-45.1 applies. What I had done was rather than narrow it down to item #15, I said these are the actual variances that are required. I also put in comment #14 for clarification that items a-e that they comply with those requirements.

Mr. Astorino: Ok.

Mr. Bollenbach: Laura, you also had the opportunity to discussed them with Bob Fink the ZBA Attorney. He understands the variances that are being required.

Laura Barca: Yes.

Comment #16: Surveyor to certify that iron rods have been set at all property corners.

John Kehoe: There are 3 pins there. One pin is missing.

Mr. Astorino: Ok.

Laura Barca: Typically, the Planning Board has an option to when it says a small residential site plan, the Planning Board could waive that requirement.

Mr. Bollenbach: They are not changing any lot lines. Where the lot lines are is where they are. However, they might need those pins to determine how to measure the set backs.

Mr. Astorino: We will have Laura take a look at that when she goes out there tomorrow at 1:00 p.m.

Comment #17: Payment of all fees.

John Kehoe: Yes.

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

John Kehoe: Ok.

Mr. Bollenbach: Does the Board wish to set this application for a public hearing?

Mr. Astorino: We could do that. That would save them from coming back for another meeting.

**Mr. McConnell makes a motion to set the John Kehoe Site Plan application for a Public Hearing at the next available agenda.**

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

John Kehoe: Thank you.

Denise Meininger: Thank you.

***Fairgrounds #2 Amended Site Plan Approval***

Application for “***Amended***” Site Plan Approval and Special Use Permit for the construction and use of commercial/ retail facilities on Building #2 and Building #3, situated on tax parcel S 51 B 1 L 40.1; project located on the northern side of State Highway 94 approximately 1000 feet east of O.C. Route 21 near the Price Chopper facility, in the CB/OI zones of the Town of Warwick.

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

Mr. Astorino: The comments that we have are Draft comments. We won't list them for the record yet.

Mr. Fink: We still need the EAF so that the Board would be able to make a determination that the Amended Findings Statement is sufficient. If you could do it in a way where you could compare it from the old plan to the new plan, then we would get a better idea. It is mainly about the water use and the traffic that we need to know. It is those kinds of threshold things.

Dave Getz: Ok. When you say the old plan that would be the previously approved Phase 2 plan.

Mr. Fink: Correct.

Dave Getz: Ok.

Mr. Fink: If there is no change, just say that there were no changes.

Dave Getz: Ok.

Laura Barca: Make sure you write what is previous in your EAF.

Dave Getz: Yes.

Connie Sardo: Dave, are you going to be re-submitting the revised plans by Wednesday?

Dave Getz: Yes. We will be submitting those by Wednesday.

Mr. Astorino: I am not going to list the Draft comments for the record because they are just Draft comments. We did have a discussion at the Work Session about the architecture regarding the buildings on the way they would be set. Do any Board Members or Professionals have any comments on that? I think we are all in an agreement.

Dave Getz: We are shifting the Mavis building over to screen it better.

Mr. Astorino: You are going to add some screening as Mr. McConnell pointed out at the Work Session.

Dave Getz: Yes.

Mr. Astorino: Now, I think you could now go onto laying that out. We will then get our Engineering comments. We will go from there. We are definitely going to need the colors of the signs, and the sign sizes. We will also need color samples of materials for roofing, siding, trim materials, etc...

Mr. McConnell: Were they preparing visuals of the mechanicals?

Mr. Astorino: We had seen the 3D photos. I believe we will see that on the other one. Is that correct? Do we have them?

Dave Getz: Are you expecting revised architectural? I know that was in the comments.

Laura Barca: We have seen the view of the Mavis building of where they are putting all the mechanicals on top of the roof.

Mr. Astorino: We want to see the revised drawings. We want to see the finished layout, colors, and signs. Laura, you are right. We had seen that.

Mr. Bollenbach: That would be from all four sides that the rooftop mechanicals would not be visible.

Mr. Astorino: Right. You will show us the landscape plantings, and the screening.

Dave Getz: Yes.

Mr. Astorino: You will show us the sensors on the doors. I will give Connie credit on that. She was the one that mentioned to have sensors put on the doors.

Mr. Bollenbach: Ted, did you have some other comments?

Mr. Fink: Yes. John and I had spoken about this today. We were wondering if there would be away to switch the front to the side. We were wondering if you could have 3 in the front and 4 on the side. It would help reduce the noise to the supermarket and the shopping area. If they would be willing to do that switch, it would be an improvement.

Dave Getz: Ok. I will check on that.

Mr. Bollenbach: Ted, did you also have some signage comments and the requirements for the Master sign plan?

Mr. Fink: This is pretty much the remainder of the development. We haven't seen the Master sign plan yet.

Dave Getz: Ok.

Mr. Astorino: Do any Board Members or Professionals have any other comments? I think the Conservation Board wants to say something.

Mark Wheeler: I am with the Town of Warwick Conservation Board. Our Chairman usually submits written comments to the Planning Board on Mondays. We did not do it this time. You are going to double the water usage on Pad #2? Do you have adequate treatment?

Mr. Astorino: You could send that comment to the Planning Board. We will address that with the applicant. That is something that has to be addressed through us. That is a planning issue. We will look into that. Does the Board or Professionals have anything further?

Dave Getz: We request to be set for a public hearing at the next available agenda.

**Mr. Kennedy makes a motion to set the Fairgrounds #2 Amended Site Plan application for a Public Hearing at the next available agenda.**

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

Dave Getz: Thank you.

**Other Considerations:**

1. Planning Board to discuss revisions to the stormwater plan and for the Planning Board to make a recommendation to the Town Board.

Mr. Astorino: Does the Board have anything further on this stormwater plan? Are you comfortable with the way it is?

Mr. Fink: We have received comments from Dennis, Laura, and Mike. We are looking at those comments.

Mr. Astorino: Ok. We will need to have another look at this. Is that what you are saying?

Ms. Little: Are we going to specify a limit on the Geo-thermal?

Mr. Fink: Yes.

Mr. Bollenbach: Yes. That was one of the comments as to what type of Geo-thermal, what type of land disturbance, what type of soil proximity to sensitive areas, etc... There will be more specificity on that. Chris, that was a good catch.

Mr. Fink: Yes.

Mr. Astorino: Ok. We will give it another go around on this. We will put it on the next Work Session.

2. **Round Hill Subdivision** – Received Letter from Steven Spiegel, dated 3/7/12 addressed to the Planning Board in regards to the Round Hill Subdivision – requesting a 6-Month Extension on 5<sup>th</sup> Re-Approval of Final Approval of a proposed 19-Lot + 1-Ag Lot cluster subdivision, situated on tax parcel SBL # 7-2-51.1; parcel located along the northerly side of Wheeler Road between Meadow Road and Hunt Drive, in the RU zone. Conditional Final Approval was granted on, 10/18/06. The 5<sup>th</sup> Re-Approval of Final Approval was granted on, 9/21/11 became effective on, 10/18/11. *The applicant has stated that the extension is needed because of the condition for final approval requiring construction of roads and significant infrastructure, which real estate market and financial conditions do not permit at this time.* The 6-Month Extension on the 5<sup>th</sup> Re-Approval of Final Approval becomes effective on, 4/18/12.

Mr. McConnell makes a motion on the Round Hill Subdivision, granting a 6-Month Extension on the 5<sup>th</sup> Re-Approval of Final Approval of a proposed 19-Lot + 1-Ag Lot cluster subdivision, situated on tax parcel SBL # 7-2-51.1. Conditional Final Approval was granted on, 10/18/06. The 5<sup>th</sup> Re-Approval of Final Approval was granted on, 9/21/11 became effective on, 10/18/11. The 6-Month Extension on the 5<sup>th</sup> Re-Approval of Final Approval becomes effective on, 4/18/12.

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

3. **McFarland Subdivision** – Letter from Karen Emmerich, Lehman & Getz Engineering, dated 3/6/12 addressed to the Planning Board in regards to the McFarland Subdivision – requesting a 6-Month Extension on Final Approval of a proposed 4-Lot subdivision, situated on tax parcel SBL # 54-1-25.13; parcel located on the northern side of State Rte: 17A 300± feet east of Forester Ave., in the SM zone. Conditional Final Approval was granted on, 11/2/11. *The applicant has stated that they are hoping to finalize the subdivision plans but they need the extension because since the Town is considering the revision of its stormwater requirements, they would like an opportunity to review the changes, if any, and revise their project if it's appropriate.* The 6-Month Extension becomes effective on, 5/2/12.

Mr. McConnell: John, would they be subject to the revised stormwater plan?

Mr. Bollenbach: That would be the one in effect. They have a conditional final approval right at this point. They would have to comply with the regulations that are in effect at the time. Rather than filing a map at this time, they are waiting to see what the results of the stormwater revisions would be. It was this application that stimulated the Town to do a re-evaluation of the stormwater regulations.

Mr. McConnell: Ok. Thank you.

Mr. Kennedy makes a motion on the McFarland Subdivision, granting a 6-Month Extension on Conditional Final Approval of a proposed 4-Lot subdivision. SBL # 54-1-25.13. Conditional Final Approval was granted on 11/2/11. The 6-Month Extension becomes effective on, 5/2/12.

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

4. **Allan & Maureen Mante Subdivision** – Letter from Kirk Rother, P.E., dated 3/14/12 addressed to the Planning Board in regards to the Mante Subdivision – requesting a 6-Month Extension on 2<sup>nd</sup> Re-Approval of Final Approval of a proposed 2-Lot subdivision, situated on tax parcel SBL # 47-1-78.234; parcel located on the eastern side of Bellvale Lakes Road and 2,725 feet south of Rabbitt Hill Road, in the MT zone. Conditional Final Approval was granted on, 9/2/09. The 2<sup>nd</sup> Re-Approval of Final Approval was granted on, 9/21/11 became effective on 9/2/11. *The applicant has stated that they renewed the 280-a variance with the ZBA and it is their understanding that the applicant's attorney has finalized the legal documents associated with the common driveway. With these developments, they hope to submit the final maps for signature in the coming weeks.* The 6-Month Extension on the 2<sup>nd</sup> Re-Approval of Final Approval becomes effective on, 3/2/12.

Mr. McConnell makes a motion on the Allan & Maureen Mante Subdivision, granting a 6-Month Extension on the 2<sup>nd</sup> Re-Approval of Final Approval of a proposed 2-Lot subdivision. SBL # 47-1-78.234. Conditional Final Approval was granted on, 9/2/09. The 2<sup>nd</sup> Re-Approval of Final Approval was granted on, 9/21/11 became effective on, 9/2/11. The 6-Month Extension on the 2<sup>nd</sup> Re-Approval of Final Approval becomes effective on, 3/2/12.

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

5. **Warwick Isle Subdivision** – Letter from Kirk Rother, P.E. dated 4/3/12 addressed to the Planning Board in regards to the Warwick Isle Subdivision – requesting **Re-Approval** of Final Approval for filing Section I to consist of a proposed 7-Lot Cluster subdivision including a Special Use Permit for the one 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 was granted on, 4/6/11. *The applicant has stated that they are in the process of satisfying the conditions of approval. They are also in the process of having the Board of Health approve the Sectionalized Plan.* The Re-Approval of Final Approval for Section I becomes effective on, 4/6/12.

Mr. McConnell makes a motion on the Warwick Isle Subdivision, granting **Re-Approval** of Final Approval for filing Section I to consist of 7-Lot Cluster subdivision including a Special Use Permit for the one 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 was granted on 4/6/11. The Re-Approval of Final Approval for Section I becomes effective on, 4/6/12 subject to the conditions of final approval granted on, 4/6/11.

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

Laura Barca: I would have to check my notes, but I believe in the public hearing, there was an adjacent landowner... Is this the one that has all of the black dirt and the channeling for the drainage?

Mr. Astorino: Yes.

Laura Barca: During that public hearing, I believe the Planning Board wanted me to go out and take a look at those with the adjacent landowner.

Mr. Astorino: Have you done that yet?

Laura Barca: No. There wasn't resources available at that time in order to do that.

Mr. Astorino: Are there resources available now?

Laura Barca: I do not know.

Mr. Astorino: Maybe, we should check on that.

Laura Barca: Ok.

Mr. Astorino: Was that with Chip Lane?

Mr. Bollenbach: Yes.

Mr. Astorino: Ok.

6. **Wheeler Road Estates** – Letter from Ryan McGuire, P&P Engineering, dated 4/3/12 addressed to the Planning Board in regards to the Wheeler Road Estates Subdivision – requesting a 13<sup>th</sup> 6-Month Extension on Preliminary Approval of a proposed 32-Lot Cluster subdivision, situated on tax parcel 8-2-44.223; parcel located on the northerly side of Wheeler Road (C.R. 41) at the intersection with Dussenbury Drive, in the RU zone. Preliminary Approval was granted on, 11/2/05. *The applicant has stated that due to the current economic and housing climate, as well as the banking industry's present lending policies, the applicant will require an additional extension until he can obtain private financing for this project.* The 6-Month Extension becomes effective on, 5/2/12.

Mr. Ruskiewicz makes a motion on the Wheeler Road Estates application, granting a 13<sup>th</sup> 6-Month Extension on Preliminary Approval of a proposed 32-Lot cluster subdivision, SBL # 8-2-44.223. Preliminary Approval was granted on, 11/2/05. The 13<sup>th</sup> 6-Month Extension becomes effective on, 5/2/12.

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

7. **Planning Board Minutes of 3/7/12** – Planning Board Minutes of 3/7/12 for PB Approval.

Mr. Showalter makes a motion to Approve the Planning Board Minutes of 3/7/12.

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

8. Planning Board to discuss “Canceling the 4/23/12 Work Session and the 5/2/12 Planning Board Meeting due to no submittals.

Mr. Showalter makes a motion to Cancel the 4/23/12 Work Session and the 5/2/12 Planning Board Meeting.

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

### **Correspondences:**

Mr. Astorino: Connie, do we have any correspondences this evening?

Connie Sardo: No.

### **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 April 18, 2012 Planning Board Meeting.**

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