

TOWN OF WARWICK PLANNING BOARD  
May 25, 2016

Members present: Chairman, Benjamin Astorino  
Roger Showalter, Vice-Chairman  
Dennis McConnell, Bo Kennedy,  
John MacDonald, Alternate  
Laura Barca, HDR Engineering  
John Bollenbach, Planning Board Attorney  
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, May 25, 2016 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 Elizabeth Ansley and Max Wild Subdivision**

Application for Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 17 B 1 L 70; parcel located on the eastern side of Distillery Road 1000 feet at the intersection with West Ridge Road (98 Distillery Road), in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Anthony Trochiano from Pietrzak & Pfau Engineering

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Ansley & Wild public hearing.

Mr. Astorino: Thank you. Ted Fink, the Town Planner is not here with us this evening. Our Secretary, Connie Sardo will read Ted's SEQRA Notes.

The following comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board –01/18/16 & 05/17/16 no comments
4. Architectural Review Board – pending comments
5. OC Planning Department – 01/20/16 advisory comments for steep slopes, access, green infrastructure, wetlands
6. TW Building Department – 12/31/15 no comments
7. The Town of Warwick Overlay Protection Districts Table does not appear on the drawing: project appears to be within the Ridgeline and Biodiversity Overlay Districts. Although construction does not appear to be currently proposed in these areas, portions of the future septic system may be within the Biodiversity Overlay District.
8. Applicant to clarify if there are any NYSDEC or USACE regulated wetlands and/or streams or major drainage ways on the plan. A note needs to be added to the plan.
9. Applicant to clarify the inlet and outlet of the pond. Applicant to clarify how the pond outlet is managed.

10. Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained."  
Added on Sheet 1, Note 1.
11. Applicant submitted a description for Lot 2; Applicant to submit a description for Lot 1.
12. The 911 addresses must be added to Sheet 1 in tabular format.
13. Any applicable declaration information must be added to the plans, if applicable.
14. Surveyor to certify that iron rods have been set at all property corners.
15. Payment of Parkland fees for one lot.
16. Payment of all fees.

The following comments submitted from the Conservation Board:

Elizabeth Ansley and Max Wild Subdivision – None submitted.

The following comments submitted by the ARB:

Elizabeth Ansley and Max Wild Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Connie Sardo: The Board has been reviewing this application with a short EAF. It is an Unlisted Action. There are no other Involved Agencies. SEQRA has been completed. Ted has prepared a Draft Negative Declaration for the Planning Board's consideration.

Comment #2: Applicant to discuss project.

Anthony Trochiano: The application is for a subdivision of a single lot to be made into 2 lots. Lot 1 would consist of an existing house that would be maintained on that lot. A new lot would be created which is located on the western side of the parcel. A single-family home is proposed on that lot. That lot is to be served by an individual well and septic. The property is located on Distillery Road. It is located in the RU zone.

Comment #3: Conservation Board –01/18/16 & 05/17/16 no comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – 01/20/16 advisory comments for steep slopes, access, green infrastructure, wetlands

Comment #6: TW Building Department – 12/31/15 no comments

Comment #7: The Town of Warwick Overlay Protection Districts Table does not appear on the drawing: project appears to be within the Ridgeline and Biodiversity Overlay Districts. Although construction does not appear to be currently proposed in these areas, portions of the future septic system may be within the Biodiversity Overlay District.

Anthony Trochiano: Will do.

Comment #8: Applicant to clarify if there are any NYSDEC or USACE regulated wetlands and/or streams or major drainage ways on the plan. A note needs to be added to the plan.

Anthony Trochiano: It is the ACOE wetlands. We don't propose to disturb any wetlands. We will add a note to the plans.

Comment #9: Applicant to clarify the inlet and outlet of the pond. Applicant to clarify how the pond outlet is managed.

Anthony Trochiano: We will clarify that on the plans. It goes directly towards Distillery Road and under to discharge to a drainage channel on the other side.

Comment #10: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Added on Sheet 1, Note 1.

Anthony Trochiano: Ok.

Comment #11: Applicant submitted a description for Lot 2; Applicant to submit a description for Lot 1.

Anthony Trochiano: Ok.

Comment #12: The 911 addresses must be added to Sheet 1 in tabular format.

Anthony Trochiano: We will add them.

Comment #13: Any applicable declaration information must be added to the plans, if applicable.

Anthony Trochiano: Ok.

Comment #14: Surveyor to certify that iron rods have been set at all property corners.

Anthony Trochiano: Will do.

Comment #15: Payment of Parkland fees for one lot.

Anthony Trochiano: Ok.

Comment #16: Payment of all fees.

Anthony Trochiano: Ok.

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

Mr. Bollenbach: I am looking at Comment #9. Applicant to clarify the inlet and outlet of the pond. I thought there was a declaration for a prior subdivision, the one that is across the way. How is that outlet managed? There is a house being built on the other side. I believe there might have been some declarations and provisions on how that drainage should be maintained. I would have to take a look at that.

Mr. Astorino: It does flow out onto that property into the wetlands.

Mr. Bollenbach: Yes. It does. Let's add to Comment #9. Provide declaration information to the Planning Board Attorney's specifications.

Mr. Astorino: Do any other Board members or Professionals have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Ansley & Wild Subdivision application, please rise and state your name for the record. Let the record show no public comment.

Mr. Kennedy makes a motion for the Negative Declaration. Seconded by Mr. Showalter. The following Resolution was carried 4-Ayes.

617.12(b)

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

**Name of Action:** Ansley 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 NY State Department of Environmental Conservation and

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 5/5/06, 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. Kennedy makes a motion to close the public hearing.

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

Mr. Showalter makes a motion on the Elizabeth Ansley and Max Wild Subdivision application, granting final approval (VOTE 4-0-0) of a proposed 2-Lot subdivision, situated on tax parcel S 17 B 1 L 70; parcel located on the eastern side of Distillery Road 1000 feet at the intersection with West Ridge Road (98 Distillery Road), in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQRA Negative Declaration was adopted on May 25, 2016. Approval is granted subject to the following conditions:

1. The Town of Warwick Overlay Protection Districts Table does not appear on the drawing: project appears to be within the Ridgeline and Biodiversity Overlay Districts. Although construction does not appear to be currently proposed in these areas, portions of the future septic system may be within the Biodiversity Overlay District.
2. Applicant to clarify if there are any NYSDEC or USACE regulated wetlands and/or streams or major drainage ways on the plan. A note needs to be added to the plan.
3. Applicant to clarify the inlet and outlet of the pond. Applicant to clarify how the pond outlet is managed.
4. Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Added on Sheet 1, Note 1.
5. Applicant submitted a description for Lot 2; Applicant to submit a description for Lot 1.
6. The 911 addresses must be added to Sheet 1 in tabular format.
7. Any applicable declaration information must be added to the plans, if applicable.
8. Surveyor to certify that iron rods have been set at all property corners.
9. Payment of Parkland fees for one lot.
10. Payment of all fees.

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

Anthony Trochiano: Thank you.

**PUBLIC HEARING OF The Gables @ Warwick Subdivision**

Application for "*Amended*" Final Approval of a proposed 15-Lot Cluster subdivision, situated on tax parcel S 44 B 1 L 132; parcel located on the southern side of State Hwy 17A at the intersection of east end of Ketchum Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Dave Getz from Lehman & Getz Engineering

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Gables 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 – 05/17/16 no comments
4. Architectural Review Board – pending comments
5. OC Planning Department – 10/21/15 site access, OCDOH approval, rec facilities, trout stream, and lot numbering
6. TW Building Department – vacant; no violations
7. NYSDOT – Applicant to provide status of approval; Applicant to provide Sheet 23 of 25, last revised 12/01/06
8. The Gables at Warwick Subdivision plans were for the most part reviewed by the previous Planning Board Engineering Company (Tectonic Engineering and Surveying). HDR has only reviewed the plans to ensure compliance with the Conditions of Final Approval and to ensure that all permits granted at that time are still valid. HDR did not review engineering or design aspects such as roadway design, stormwater plans, and septic system/well designs; these items were previously reviewed and approved by others.
9. Sheet 23 of 25 indicates that there is an USACE permit #2002-00818-YS dated August 29, 2003 for this project. Please submit a copy/scan of this permit.
10. Sheet 23 of 25 indicates that the 2003 wetland delineation was updated in December 2015; however the new names provided for the wetlands are confusing and likely do not correspond with USACE permit #2002-00818-YS. Applicant to clarify wetland names.
11. An aquifer assessment will need to be submitted. (under review by Town Planner)
12. The water supply will be reviewed and approved by Orange County Department of Health.
13. The septic systems will be reviewed and approved by Orange County Department of Health.
14. Applicant to confirm that the landscaping proposed is in compliance with the Town code requirements.
15. Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Shown on Sheet 1, Note 30

16. Applicant to clarify if the revised property lines will require the removal of any significant trees identified on Sheet 1, Note 24.
17. Sheet 1, Note 12 (no future subdivision with OCDOH approval) and Sheet 1, Note 27 (three additional lots can be subdivided because the Yield Plan had 18 lots) shall be combined into one note. Sheet 1, Note 12 shall be revised to state "There shall be no future subdivision of any lot."
18. Show eight trees to be planted on each lot for screening, per §164-47.1F(3)(c)[1], on the Typical Lot Layout, sheet 16. Revise landscape screening along Route 17A to Town Planner's specifications.
19. Identify significant trees on Landscape Plan [sheet 25]. Reference details and notes for the preservation of significant trees on site.
20. Revise Lot Layout Plan [Sheets 4A & 4B] so that metes and bounds are consistent with the final lot layout. Eliminate overlapping text. Overlapping text has been corrected; pending surveyor to final metes and bounds.
21. Proposed roadway will require waivers for the roadway (1) §168-13 distance between catch basins from 200-ft required to 400-ft proposed (unless man holes are catch basins), (2) §168-17 slope from 10% maximum to 11.5% maximum, (3) §168-20 horizontal sight distance at intersection of Town Roads, (4) §A168 Attachment 1: side-slopes from the required 2:1 to the proposed 3:1, and potential radii of curvature and vertical curves.
22. Applicant to clarify purpose of island at entrance to subdivision and expand upon signage/stripping shown on the Sheet 12, including which driver has the right-of-way when entering the subdivision.
23. The street sign details shown on Sheet 17 of 25 need to be shown with the post and the height of the sign.
24. The locations of the proposed 15mph speed limit sign must be shown on the drawings.
25. Applicant should show a connection to the existing Orange County Park Property.
26. Language allowing wells and septic systems shall be added to allowed uses within the Open Space notes on Sheet 2 of 25.
27. Provide Model Home and Water District Notes per the Planning Board Attorney's specifications.
28. Town Board to approve Water and Drainage Districts Notes per Planning Board Attorney's specifications.
29. Provide the declaration and recording information on the plan for the for the current Ridgeline Overlay Notes, current Aquifer Protection Overlay Notes, Open Space Conservation, and Homeowner's Association to the PB Attorney's specifications.
30. Provide the declaration and recording information on the plan for HOA ownership and maintenance of drainage and stormwater management facilities. Provide easement descriptions for the PB Attorney's review and approval.
31. List all dedicated areas and easements, their locations in the plan set, and recording information (date, liber, and page) on sheet 2.
32. Applicant to submit Construction Cost estimate and landscaping cost estimate.
33. Pay Performance Bond and Construction Inspection Fee for Town road, Stormwater Management Facilities, and Erosion Control.
34. Pay Landscape Maintenance Bond (three-year term) for screening plantings and hydric plantings at stormwater management facilities.
35. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at all conservation area corners.
36. Payment of parkland fees per §75-3.A(2)(a)(3) for 15 lots.
37. Payment of all fees.

The following review comment submitted by the CB:

The Gables At Warwick Subdivision- None submitted.

The following review comment submitted by the ARB:

The Gables At Warwick Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Connie Sardo: This project originally received a Negative Declaration back in June of 2005 when they received Preliminary Approval. As per Ted Fink, he has stated that SEQRA has been fully complied with.

Mr. Astorino: Gables also received conditional Final Approval back in 2007. Is that correct?

Connie Sardo: Yes.

Comment #2: Applicant to discuss project.

Dave Getz: The Gables received original conditional final approval back in 2007. It is a 75-acre parcel located off Route 17A towards Bellvale. Across the street from the proposed entrance is the Peach Grove Inn. What we have come back with is an amended subdivision plan. The main change is that each lot, 15 lots would be served by individual wells. When this subdivision was approved about 9 years ago, it was part of a new concept to create a new water district along with the BCM Subdivision where they would have about 40 lots across the street. That was also going to tie in with the Bellvale Park existing neighborhood. The BCM project has fallen by the way side. Bruce Zaretsky who is the owner of the Gables who couldn't be here tonight, he wants to pursue final approval now with individual wells. The plans that we submitted show that change. In making the change, we did not shift the location of any house, driveway, drainage structure, roadway, or grading. The layout of the project is still the same except for the wells. On 2 of the lots, we changed the proposed septic system design to Eljen units just to reduce the foot print of those areas. One change that came up at the Work Session, Mr. Zaretsky would like to delete the proposed driveway that was shown for the existing house. It was shown to be connected with the new Gables road. He would like to continue to use the existing driveway out to Route 17A.

Mr. Astorino: I don't think the Board had any issues with that.

Mr. Showalter: Making that change, it would make more sense to do it that way.

Mr. Astorino: Just for the record, it was proposed to the applicant to do a cross analysis of wells versus connecting to the Bellvale Water District that is there. There is one other point of reference. It was referenced in the Negative Declaration that if the new Water District did not become viable, in which case it did not, that wells would be acceptable. That was all listed back in 2005.

Dave Getz: The very first plans for this project had wells shown.

Mr. Astorino: Yes. It did.

Dave Getz: Then, it was changed.

Mr. Astorino: The cost analysis for the Board's record, which you had provided, it indicated an astronomical amount to do the water system for 15 to 18 lots that it would not be feasible to do that. We will have a copy of that in the file.

Dave Getz: The cost differences is in the magnitude of 5 to 10 times more expensive.

Connie Sardo: Do I have that cost estimate?

Mr. Astorino: You will have it.

Dave Getz: In turn to that analysis, there were 2 wells drilled on the property.

Mr. Astorino: We had to drill the proposed wells for the Health Department.

Dave Getz: Yes.

Comment #3: Conservation Board – 05/17/16 no comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – 10/21/15 site access, OCDOH approval, rec facilities, trout stream, and lot numbering.

Mr. Astorino: That was all done back when they received original final approval.

Comment #6: TW Building Department – vacant; no violations

Comment #7: NYSDOT – Applicant to provide status of approval; Applicant to provide Sheet 23 of 25, last revised 12/01/06

Mr. Astorino: That was when you got the approval NYS.

Laura Barca: Yes. That was when you got the approval.

Dave Getz: Yes. Do you have a copy of the approval?

Laura Barca: I don't have it yet. I have a copy of the approval letter.

Dave Getz: But you do not have the plans. Is that correct?

Laura Barca: Yes. I don't have the plans.

Dave Getz: Ok. We will get you that.

Comment #8: The Gables at Warwick Subdivision plans were for the most part reviewed by the previous Planning Board Engineering Company (Tectonic Engineering and Surveying). HDR has only reviewed the plans to ensure compliance with the Conditions of Final Approval and to ensure that all permits granted at that time are still valid. HDR did not review engineering or design aspects such as roadway design, stormwater plans, and septic system/well designs; these items were previously reviewed and approved by others.

Mr. Astorino: We have that. That has all been done, approved, and signed off on.

Comment #9: Sheet 23 of 25 indicates that there is an USACE permit #2002-00818-YS dated August 29, 2003 for this project. Please submit a copy/scan of this permit.

Dave Getz: Will do.

Comment #10: Sheet 23 of 25 indicates that the 2003 wetland delineation was updated in December 2015; however the new names provided for the wetlands are confusing and likely do not correspond with USACE permit #2002-00818-YS. Applicant to clarify wetland names.

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

Dave Getz: ERS Consultants will be taking care of that.

Mr. Astorino: Ok. ERS will be cleaning that up so it would correspond with the last one.

Dave Getz: In the big picture, his new delineation done years after the first is almost identical to the original one.

Comment #11: An aquifer assessment will need to be submitted. (under review by Town Planner)

Dave Getz: That has been submitted. Is that correct?

Laura Barca: That has been submitted. I left that there because Ted did not have a chance to review it.

Mr. Astorino: What are we looking for as far as aquifer assessment? That has been done.

Laura Barca: That is done. It has been submitted for the files as far as I know.

Mr. Astorino: We are just updating our file. All of this has been approved and done.

Laura Barca: Correct.

Mr. Astorino: They are not asking for you to do this again. Is that correct?

Laura Barca: Correct. We are not asking for a new one. We are just bringing it into our 2016 files.

Mr. Astorino: That is why I ask with these comments. These comments are a little redundant here.

Comment #12: The water supply will be reviewed and approved by Orange County Department of Health.

Laura Barca: Yes. In Realty subdivision, the OCHD is given a letter that would say that they are good with it. But with a Realty subdivision, in order for them to sign the plans they wait until the Planning Board is good with the language on the plans. When the Town is good with it, they then go to the OCHD for signature then they come back to the Town for signature.

Comment #13: The septic systems will be reviewed and approved by Orange County Department of Health.

Dave Getz: Yes.

Comment #14: Applicant to confirm that the landscaping proposed is in compliance with the Town code requirements.

Dave Getz: We got the note from Ted. No problem.

Comment #15: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Shown on Sheet 1, Note 30

Dave Getz: Yes. That has been done.

Comment #16: Applicant to clarify if the revised property lines will require the removal of any significant trees identified on Sheet 1, Note 24.

Dave Getz: Yes. I did not point out that with the changes that we made to the project. Inside the loop there are 7 proposed lots. In field layout we had to move a few property lines to get the separation from wells and septic. In doing that, there is no new construction or disturbance proposed.

Mr. Astorino: Any specimen trees that were called out are still called out to be saved. Is that correct?

Dave Getz: Yes.

Laura Barca: So the limit of disturbance basically did not change even though you changed a couple of the lot lines. Is that correct?

Dave Getz: That is right. On the individual lots, we were able to delete the disturbance that are within from the road to the house as far as the water service line. It was replaced through the well. It is pretty much a wash.

Laura Barca: Ok.

Comment #17: Sheet 1, Note 12 (no future subdivision with OCDOH approval) and Sheet 1, Note 27 (three additional lots can be subdivided because the Yield Plan had 18 lots) shall be combined into one note. Sheet 1, Note 12 shall be revised to state "There shall be no future subdivision of any lot."

Mr. Astorino: I believe this is going to change.

Dave Getz: The process was a Cluster subdivision. Back in the year 2005, here is the Yield Plan that was prepared for the project with 3-acre zoning as applied for the yield density. We had done enough engineering, soil testing, etc...to demonstrate a viable plan. The Planning Board in their Negative Declaration for the approval of the project mentioned that the Yield Plan met the Town's Guidelines for 18 lots.

Mr. Astorino: Yes. I have verified that.

Dave Getz: When we prepared the Cluster plan, it originally also had 18 lots. The plan today has 15 lots. There were 2 additional lots that used to be called Lots 4 & 5. That is why the lot numbers skip from 3 to 6. Way back when, we decided that it would be easier to keep the lots with that skip as opposed to redoing all of the numbering. There is a Lot #18 out front next to Lot #17. We had done testing throughout the Preliminary and Final Approval process. The Town Engineer had witnessed satisfactory tests for the yield and also for the 18 lots on a Cluster plan. When we went to the Health Department, we had difficulty in these two areas to get perc rates. At the time, the owner was anxious to go forward and not spend any more time trying to get those lots those soils to be finalized. He wanted to go forward with the understanding that there were notes on the plan at that time that future subdivision would require Town and Health Department review but would be limited to the 18-Lot total that was approved under the Clustering and Yield plan process.

Mr. Bollenbach: Why aren't those additional lots shown now? You had plenty of time of time to do that.

Dave Getz: The owner had chosen not to pursue that in the meantime. He has been trying to minimize his cost.

Mr. Bollenbach: You could minimize the cost by going with 15 lots. I am just wondering what the rationale is on which lots could be further subdivided? Your Note #12 states that "no lots are to be further subdivided without Orange County Department of Health review and approval". "Future subdivision of the property shall be limited to the maximum of 3 additional lots based upon the 18-Lot Yield Plan approved for the project". Which lots are to be further subdivided? Where does it reflect that? In this note, is there a declaration?

Dave Getz: I know that it was discussed in detail at the time.

Mr. Bollenbach: That is a question. I don't have a recollection of that.

Dave Getz: The answer would be for Lots 3 and 11.

Mr. Astorino: John, would that be a reserved parcel? The conditional final approval letter that we have back from December 5, 2007, the first condition reads as follows; *“Yield Plan indicates that this parcel may be subdivided a maximum of 18 lots. Applicant proposes 15 lots at this time, reserving three lots (maximum) to be added at some future date. Revised Notes 27 & 12 to Planning Board’s specification”*. John, to clean this up...

Mr. Bollenbach: It is for new Board to consider.

Mr. Astorino: I am sure if we went back to the minutes, it would be there.

Mr. Showalter: The applicant is asking for 15 lots? Is that correct?

Dave Getz: Correct.

Mr. Bollenbach: Plus 3 more lots.

Mr. Showalter: If he is asking for 15 lots, then why don’t we approve it for 15 lots and no more and be done with it? If they want to further subdivide it in the future, then each individual owner of the lot could come back.

Mr. Astorino: No. It doesn’t work that way.

Dave Getz: This is asking for a note that says no future subdivision.

Mr. Showalter: Then, why don’t you just make it 15 lots if it says no future subdivision?

Mr. Astorino: That is the issue that we are having here. Back in 2007 the applicant apparently got approval to do those 3 lots at another time. I think the issue here is, how do you reserve those lots? In Johns point, how do you clean it up? If it is Lot 4, do you want a declaration or something? Your point is, let’s get something to clean this up.

Mr. Bollenbach: Yes. What is the reasoning for it? I have no idea.

Mr. Astorino: Let’s just get this cleaned up.

Mr. Bollenbach: How are you going to insure the adequate separation of the wells and septics?

Dave Getz: I think the idea by cleaning it up is by specifying the 2 lots that are involved. I believe to answer your question about separation, it would require Town and Health Department approval.

Mr. Astorino: It would come back to the Planning Board.

Dave Getz: Separations would be checked during that review process. The Health Department would not approve a new lot if it doesn’t meet separations.

Connie Sardo 6/1/2016 4:01 PM  
Comment [1]:

Mr. Astorino: Why don't we do this as a Board? Why don't we research the minutes? It has to be there. Maybe a declaration or something that spells it out in a deeded declaration to the potential lots that it could potentially go on.

Connie Sardo: You are also going to have to talk to Ted Fink about this?

Mr. Astorino: It is listed in SEQRA. I have read the Negative Declaration. It clearly states that the Yield Plan was for 18 lots. It is not something that is being pulled out of the air. Let's move on. We will get this resolved.

Comment #18: Show eight trees to be planted on each lot for screening, per §164-47.1F(3)(c)[1], on the Typical Lot Layout, sheet 16. Revise landscape screening along Route 17A to Town Planner's specifications.

Dave Getz: No problem.

Comment #19: Identify significant trees on Landscape Plan [sheet 25]. Reference details and notes for the preservation of significant trees on site.

Dave Getz: No problem.

Comment #20: Revise Lot Layout Plan [Sheets 4A & 4B] so that metes and bounds are consistent with the final lot layout. Eliminate overlapping text. Overlapping text has been corrected; pending surveyor to final metes and bounds.

Dave Getz: Right.

Comment #21: Proposed roadway will require waivers for the roadway (1) §168-13 distance between catch basins from 200-ft required to 400-ft proposed (unless man holes are catch basins), (2) §168-17 slope from 10% maximum to 11.5% maximum, (3) §168-20 horizontal sight distance at intersection of Town Roads, (4) §A168 Attachment 1: side-slopes from the required 2:1 to the proposed 3:1, and potential radii of curvature and vertical curves.

Mr. Astorino: The Planning Board went out there. There would have been more cuts and fills. It would have destroyed a lot of property up there. We looked at this very close.

Dave Getz: The Negative Declaration mentions that.

Mr. Astorino: It does. We did look at that very close.

Comment #22: Applicant to clarify purpose of island at entrance to subdivision and expand upon signage/stripping shown on the Sheet 12, including which driver has the right-of-way when entering the subdivision.

Dave Getz: He is willing to eliminate the island.

Mr. Showalter: I would like to have that eliminated.

Mr. Astorino: Yes. That is what we had discussed.

Laura Barca: Yes. Eliminate the island.

Mr. Astorino: Ok. Comment #22, we could change that. Put signage and striping.

Dave Getz: Ok.

Mr. McConnell: Do you have any recollection as to why that was there?

Dave Getz: In reading the Negative Declaration, it mentions a boulevard entrance.

Mr. Astorino: I don't know why that was there.

Mr. Showalter: That was the style back then.

Dave Getz: It wasn't technically required because it wasn't 19 lots.

Mr. Bollenbach: At that time, I think it was 18 lots. That means it would require 2-means of access. The applicant did show 2 means of access. One was using the driveway of the adjoining parcel with the house. This was done as a boulevard. I don't know what the dimension of this was. But, it is intended to be a wider entrance.

Mr. McConnell: We are going to take the island out. We are not going to narrow that entrance. Is that correct?

Dave Getz: Right.

Mr. McConnell: That would actually improve the situation.

Mr. Bollenbach: Yes.

Mr. Astorino: I agree.

Comment #23: The street sign details shown on Sheet 17 of 25 need to be shown with the post and the height of the sign.

Dave Getz: Ok.

Comment #24: The locations of the proposed 15mph speed limit sign must be shown on the drawings.

Dave Getz: Yes.

Comment #25: Applicant should show a connection to the existing Orange County Park Property.

Dave Getz: Is there a spot?

Laura Barca: That was talked about at the Work Session with Karen.

Dave Getz: Ok.

Laura Barca: We mentioned that somewhat because you are going to have that open space.

Mr. Astorino: I think that would have to be up to the owner for this Board to say show a connection. I think that would be something that would have to be worked out with the Orange County Park.

Laura Barca: Karen had said there was already a trail there.

Mr. Astorino: But there was a trail that wasn't probably an official trail.

Dave Getz: It's private property.

Mr. Astorino: It is private property. I am not in favor of saying to them to open it up to the park's system.

Mr. McConnell: I don't think we discussed that.

Mr. Showalter: I agree with Ben.

Mr. McConnell: I think Karen pushed back on that.

Mr. Astorino: I think there is an existing trail. It is a trail that people take for granted. I am not in favor of it.

Comment #26: Language allowing wells and septic systems shall be added to allowed uses within the Open Space notes on Sheet 2 of 25.

Dave Getz: Ok.

Comment #27: Provide Model Home and Water District Notes per the Planning Board Attorney's specifications.

Dave Getz: Yes.

Comment #28: Town Board to approve Water and Drainage Districts Notes per Planning Board Attorney's specifications.

Dave Getz: Ok.

Comment #29: Provide the declaration and recording information on the plan for the for the current Ridgeline Overlay Notes, current Aquifer Protection Overlay Notes, Open Space Conservation, and Homeowner's Association to the PB Attorney's specifications.

Mr. Astorino: We would also need to potentially add a note to finding of these reserved lots. John, is that correct?

Dave Getz: For possible future subdivision?

Mr. Astorino: Is that the way the Board wants to go?

Mr. Bollenbach: We will have to do something on the map. I am looking at Lot #7 the large lot. That is the open space.

Dave Getz: I think it would make sense to eliminate that.

Mr. Bollenbach: How are you going to access? How could you access a future subdivision of Lot #7?

Dave Getz: We wouldn't propose that. We would be limited to Lot #3 and Lot #11.

Mr. Bollenbach: Then it is for only 2 more lots now. It would not be for 3 more lots.

Dave Getz: Lot #3 could have 2 additional lots. It previously did at the preliminary level. Lot #11 had a second lot there. It is still going from 15 Lots to 18 Lots. It only affects 2 of the 15 lots shown on this plan.

Mr. Astorino: You are not talking about going into the open space.

Dave Getz: No. Not at all. This layout worked for 3 additional homes.

Mr. Astorino: For those 2 lots, let's draw up something that our Attorney would be comfortable with specifying that. We will get the minutes to reflect what is happening here.

Dave Getz: Yes. Meeting these certain requirements, it could be back for your review.

Mr. McConnell: I think John had raised a valid point here. If it is only a potential that could be divided into 2 additional making it a total of 3 the one on the bottom that you show, you can't market that as being as subdivideable unless you can demonstrate a head of time with separation, percs, etc...

Mr. Astorino: Right. It would require Health Department approval and Planning Board approval.

Mr. McConnell: Right.

Mr. Astorino: You could say that the potential exists that would notify....

Mr. McConnell: I don't want to be in the position having to police or having the Building Department police the marketing of this. I am uncomfortable with this.

Mr. Astorino: I think that language has to spelled out in such a way.

Mr. McDonald: Would that be on the Builder's part before he sold the properties such as if he was building on Lots 9, 8 & 7? Now he has developed some funds and he starts to work on these, then he would be able to subdivide those himself or sell them. Is that correct?

Dave Getz: It could be him or someone he sold it to.

Mr. Astorino: That would have to be decided. That was what Mr. Bollenbach had said.

Mr. Bollenbach: Dave, have your attorney provide something.

Mr. Astorino: Yes. Have your attorney provide something to us. That has to be cleared up.

Dave Getz: Ok. Will do.

Comment #30: Provide the declaration and recording information on the plan for HOA ownership and maintenance of drainage and stormwater management facilities. Provide easement descriptions for the PB Attorney's review and approval.

Dave Getz: Ok.

Comment #31: List all dedicated areas and easements, their locations in the plan set, and recording information (date, liber, and page) on sheet 2.

Dave Getz: Ok.

Comment #32: Applicant to submit Construction Cost estimate and landscaping cost estimate.

Dave Getz: Ok.

Comment #33: Pay Performance Bond and Construction Inspection Fee for Town road, Stormwater Management Facilities, and Erosion Control.

Dave Getz: He is aware of that.

Comment #34: Pay Landscape Maintenance Bond (three-year term) for screening plantings and hydric plantings at stormwater management facilities.

Dave Getz: Ok.

Comment #35: Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at all conservation area corners.

Dave Getz: Yes.

Comment #36: Payment of parkland fees per §75-3.A(2)(a)(3) for 15 lots.

Dave Getz: Ok.

Comment #37: Payment of all fees.

Dave Getz: Ok.

Mr. Astorino: Do any Board members of Professionals have any comments? What we are going to wait on is the language for those lots. Dave, dig up those minutes and provide them.

Dave Getz: Ok.

Mr. Astorino: This is a public hearing. If there is anyone in the audience wishing to address the Gables Subdivision application, please rise and state your name for the record.

Robert Ibbetson: I live on the intersection of Ketchum Road and Route 17A on the east side. I know they are going to have separate wells. What happens if that affects my well?

Mr. Astorino: It should not. They have tested it. They had Health Department wells that were drilled up there. It met the requirements. Can I guarantee that your well is not going to be affected? I can't guarantee that. They did do the proper testing.

Robert Ibbetson: Ok. Regarding sewer, is everyone going to have their own sewer?

Mr. Astorino: They are septic systems.

Robert Ibbetson: Ok. Where is the entrance and exit going to be?

Mr. Astorino: The entrance and exit are going to be at the same place across from the Peach Grove Inn.

Robert Ibbetson: You are going to have a lot of fatalities there.

Mr. Astorino: That is DOT. That has been approved by the NYSDOT.

Robert Ibbetson: I know. But, I can't understand why they did that.

Mr. Astorino: We have to send it to the NYSDOT. We cannot approve anything on their road.

Robert Ibbetson: From 5:00am to 7:00am they come they come down off that hill at 55 to 60 MPH especially those big trucks. You think you had accidents at the other development Homestead Village. You are going to have 4 to 5 times of many accidents there.

Mr. Astorino: We give it to the NYSDOT. They have to sign off on it.

Robert Ibbetson: I can't understand that.

Mr. Astorino: They have also had traffic studies done.

Robert Ibbetson: Across the road you have the Bed & Breakfast. You have 4 places coming out approximately 200 yards. That is going to be very dangerous. Where would you be draining the water from the rain?

Mr. Astorino: It goes into a stormwater pond and facilities.

Robert Ibbetson: It will not go into my stream. Is that correct?

Mr. Astorino: Where does it end, I don't know. One thing that I could tell you is that no more water will leave that property now than it would when it is completely built out. That is the reason for all of the detention ponds.

Robert Ibbetson: That is one of my main concerns. The stream that I have, once it gets 3 inches of rain, I have problems with it.

Mr. Astorino: That is what I am saying. No more water will leave that property once it is built out then it does right now. That is the reason for it. Dave, please could you show the map to Mr. Ibbetson and explain the drainage?

Dave Getz: Yes.

Donna Ibbetson: Could I come up and take a look at the map?

Mr. Astorino: Yes.

Mr. Getz explains the drainage pattern of the property and shows Mr. & Mrs. Ibbetson on the map where drainage happens now in various directions and into the wetland area. Where the Ibbetson's house is located, there is a stormwater basin proposed below the development area outside the wetlands. It is to collect runoff that is heading in that direction then store it and release it slowly. Dave also explains to Mr. & Mrs. Ibbetson that the applicants had to demonstrate and it was reviewed by the local people and by the DEC that they had to show the peak rate involved would not increase and that the ponds are big enough to hold the water and release slowly. Runoff from part of the property would continue to go there. It would not increase flooding. Dave also states that the majority of that area that drains to that spot is not being disturbed. They would be disturbing some of the area that drains that way but most of that hillside will not be affected by this project.

Robert Ibbetson: Ok. That was all I had to say. Thank you.

Donna Ibbetson: We have our well right there. I don't know where our vein is on where we get our water from. What happens when they put all of these houses in and our well goes dry?

Mr. Astorino: They were required by the Health Department to dig 2 wells. That is the requirement. Testing the wells they do a 72-hour pump test. Dave, is that correct?

Dave Getz: Yes. Also the aquifer assessment was done for this project in conjunction on 40 lots with BCM.

Mr. Astorino: There was an aquifer study done. You are in the Aquifer Overlay District. That means there is water underneath the ground. That is a plus for you. With the pump test that they had done back in 2006, if you had problems back then, it would have shown. They pumped those wells like they had 15 houses going.

Donna Ibbetson: We had a problem one time.

Robert Ibbetson: No. The only time we had a problem was when there was 8 inches of rain. It just muddied the water for a little while.

Mr. Astorino: But they did meet the requirements that they had to meet.

Robert Ibbetson: We are fine with the well. I was just worried about the drainage. That intersection is going to be bad. I know that comes from the State. I know that doesn't have anything to do with you guys. There are going to be fatalities there.

Mr. Astorino: We forwarded to the NYSDOT. That is their road.

Robert Ibbetson: I understand that. They gave you permission to do that.

Mr. Astorino: Yes. They already issued the permit for that back in 2007.

Robert Ibbetson: Ok. It is really dangerous there. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Gables Subdivision? Let the record show no further public comment. We could adjourn this public hearing to the June 15, 2016 Planning Board meeting.

Dave Getz: Could I request that the Board close the public hearing?

Mr. McConnell: I don't think we can close the public hearing until we get the information that we are looking for regarding those 3 lots. John, is that correct?

Mr. Bollenbach: Yes.

Dave Getz: I just want to mention something. You had said when they did the pump testing it was done for the 15 lots. It was for the 18 lots.

Mr. Astorino: You are right.

Dave Getz: All of the environmental impacts that were done were based on the 18 lots.

Mr. Astorino: That is right. Dig up those minutes. We will have everything. Submit to Connie the cost estimate between the two.

Dave Getz: Ok.

Mr. Astorino: We will adjourn the Gables public hearing to the June 15, 2016 Planning Board meeting.

**Mr. McConnell makes a motion to adjourn the Gables Subdivision application to the June 15, 2016 Planning Board Meeting.**

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

**Review of Submitted Maps:*****Howe-Browne Lot Line Change***

Application for Sketch Plat Review and Application for Final Approval of a proposed Lot Line Change, situated on tax parcels S 42 B 1 L 109 & 111; parcels located on the western side of C.R. 1A 500± feet north of Waterbury Road, in the RU zone, of the Town of Warwick.

Representing the applicant: Kirk Rother, P.E.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – 05/17/16 no comments
4. Architectural Review Board – pending comments
5. OC Planning Department – 05/17/16 no advisory comments
6. TW Building Department – 04/27/16 Howe – needs an permit, engineer’s letter, and CO for fifth bedroom
7. If no stormwater plan is included, a note must be added to the plans stating that there will be no ground disturbance.
8. Applicant to clarify if there are any NYSDEC or USACE regulated wetlands and/or streams or major drainage ways on the plan. A note needs to be added to the plan.
9. Applicant to clarify the inlet and outlet of the pond and how the outlet flow is managed.
10. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”
11. The plans must be signed/sealed by the Licensed Surveyor from the State of New York.
12. Applicant to prepare/provide shared driveway agreement for Howe (42-1-111 or 22 Wintergreen Ct).
13. The declaration information for the Agricultural Notes must be added to the plans.
14. Surveyor to certify that iron rods have been set at all property corners.
15. Payment of all fees.

The following comment submitted by CB:

Howe-Browne Lot Line Change – None submitted.

The following comment submitted by ARB:

Howe-Browne Lot Line Change- None submitted.

Comment #1: Planning Board to discuss SEQRA.

Connie Sardo: The Planning Board has received a short EAF from the applicant. There is no construction proposed. It is just a simple lot line change. Under SEQRA, it meets all of the thresholds of a Type 2 Action. Ted has prepared a draft Type 2 Action Resolution for the Planning Board’s consideration.

Mr. Kennedy makes a motion for a Type 2 Action.

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

**617.6**  
**State Environmental Quality Review (SEQR)**  
**Resolution**  
Type 2 Action

**Name of Action:** Howe-Browne Re-Subdivision

**Whereas**, the Town of Warwick Planning Board is in receipt of a Subdivision application by Brian T. Browne for a ± 19.908 area encompassing a 13.907 acre parcel and a 6.001 acre parcel of land located at County Route 1A and Waterbury Road, Town of Warwick, Orange County, New York, and

**Whereas**, an Environmental Assessment Form (EAF) dated April 6, 2016 was submitted at the time of application, and

**Whereas**, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(26) and, therefore, SEQR does not apply, and

**Whereas**, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed, forwarded to the owners of all farm operations within 500 feet of the site, and then considered by the Planning Board, and

**Whereas**, after examining the EAF, the Planning Board has determined that there are no other involved and/or federal agencies on this matter.

**Now Therefore Be It Resolved**, that the Planning Board hereby declares that no further review under SEQR is required.

Comment #2: Applicant to discuss project.

Kirk Rother: The application before the Board is for a proposed lot line change between two existing parcels of land. The one lot is a residential lot. It is situated on approximately 6 acres. It fronts on a Private Road known as Wintergreen Court. The other property is agricultural property that also has a single-family residence located on County Route 1. It is known as the Browne Farm. The proposal is to take 2 acres of upland from the Howe parcel the residential 6-acre lot and convey it to the Browne agricultural property for agricultural purposes.

Comment #3: Conservation Board – 05/17/16 no comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – 05/17/16 no advisory comments

Comment #6: TW Building Department – 04/27/16 Howe – needs an permit, engineer’s letter, and CO for fifth bedroom

Kirk Rother: Ok.

Comment #7: If no stormwater plan is included, a note must be added to the plans stating that there will be no ground disturbance.

Kirk Rother: Ok.

Comment #8: Applicant to clarify if there are any NYSDEC or USACE regulated wetlands and/or streams or major drainage ways on the plan. A note needs to be added to the plan.

Kirk Rother: I will add the note.

Comment #9: Applicant to clarify the inlet and outlet of the pond and how the outlet flow is managed.

Kirk Rother: Will do.

Comment #10: Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”

Kirk Rother: Ok.

Comment #11: The plans must be signed/sealed by the Licensed Surveyor from the State of New York.

Kirk Rother: Yes.

Comment #12: Applicant to prepare/provide shared driveway agreement for Howe (42-1-111 or 22 Wintergreen Ct).

Kirk Rother: Mr. Bollenbach asked us to pull some deeds. On one of them, the Howe lot was created by a subdivision in the late 70’s early 80’s that was approved by the Planning Board. At the very end of the deed from Barnell & Rogers at the time, Rogers is now the Howe parcel. It describes the Right-Of-Way. It says, subject to the obligation to pay one half of the cost of the maintenance of said driveway.

Mr. Bollenbach: We would have that declaration information referenced on the map.

Kirk Rother: Ok. Do we refer to this Liber & Page?

Connie Sardo: John, that is on your desk.

Mr. Bollenbach: I haven’t reviewed it yet. We would need some type of declaration to have some type of a narrative to indicate that it shall be shared 50-50 as per the Liber & Page.

Kirk Rother: Ok.

Mr. Astorino: It will be a note on the plan referencing that Liber & Page.

Kirk Rother: Ok.

Comment #13: The declaration information for the Agricultural Notes must be added to the plans.

Kirk Rother: That would be the same thing. This would normally be an attorney that would prepare a declaration for the Agricultural Notes. We are the agricultural use that these notes are protecting the future property owner from.

Mr. Bollenbach: That would be up to the Board.

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

Mr. McConnell: Are you the only agricultural use within 500 feet?

Kirk Rother: Yes.

Mr. McConnell: I have no problem with that.

Mr. Astorino: I agree. Just put a note on there.

Mr. Showalter: Yes.

Laura Barca: You will add the notes. But there would be no declaration. Is that correct?

Kirk Rother: The notes are here. I will just take the last note off that says the declaration has been filed.

Mr. Astorino: Ok.

Comment #14: Surveyor to certify that iron rods have been set at all property corners.

Kirk Rother: Will do.

Comment #15: Payment of all fees.

Kirk Rother: Yes.

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

Mr. McConnell: I just want to confirm that there will be no additional additions to the barn or anything like that where it would contemplate it in this.

Kirk Rother: There is no construction proposed.

Mr. McConnell: John, when an applicant states that no construction is contemplated, how long before they could change their minds on this? Is there generally speaking a reasonable amount of time for this? Is there any guidance on that?

Mr. Bollenbach: It is just a good faith representation.

Kirk Rother: It is an agricultural use.

Mr. McConnell: So is a barn.

Kirk Rother: Brian, do you have any intentions on building anything there in the future.

Brian Browne: I have no intentions to build anything there.

Kirk Rother: We ask that the Board waive the public hearing.

Mr. Showalter makes a motion to waive the public hearing.

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

Mr. Kennedy makes a motion on the Howe-Browne Lot Line Change application, granting Final Approval of a proposed Lot Line Change, situated on tax parcels S 42 B 1 L 109 & 111; parcels located on the western side of C.R. 1A 500± feet north of Waterbury Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. A Type 2 Action was adopted on May 25, 2016.

1. TW Building Department – 04/27/16 Howe – needs an permit, engineer’s letter, and CO for fifth bedroom
2. If no stormwater plan is included, a note must be added to the plans stating that there will be no ground disturbance.
3. Applicant to clarify if there are any NYSDEC or USACE regulated wetlands and/or streams or major drainage ways on the plan. A note needs to be added to the plan.
4. Applicant to clarify the inlet and outlet of the pond and how the outlet flow is managed.
5. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”
6. The plans must be signed/sealed by the Licensed Surveyor from the State of New York.
7. Applicant to prepare/provide shared driveway agreement for Howe (42-1-111 or 22 Wintergreen Ct).
8. The declaration information for the Agricultural Notes must be added to the plans.
9. Surveyor to certify that iron rods have been set at all property corners.
10. Payment of all fees.

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

Kirk Rother: Thank you.

***Shop Rite Warwick***

Application for Site Plan Approval and Special Use Permit for the construction and use of a proposed 11,825 s.f. addition to the side of the existing ShopRite Supermarket, removal of a portion of the existing outparcel building, and modification to the existing parking layout, situated on tax parcel S 51 B 1 L 6.21; project located on the northern side of New Milford Road 318.4 feet west of Warwick Turnpike (153 State Route 94 South), in the CB zone, of the Town of Warwick. Previously discussed at the Planning Board Meeting of 4/20/16.

Representing the applicant: Dan Peveraro, from the Lauro Group. Anthony Mole, Esq.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – 05/17/16 no comments
4. Architectural Review Board – joint meeting 04/20/16; comments dated 05/06/16
5. OC Planning Department – 04/29/16 advisory comments on access, wetlands, drainage, lighting, and noise
6. TW Building Department – 03/30/16 open permits for interior renovations (permit #20405), renovations (permit #21698), remove Provident Bank (permit #21700), repairs (permit #21701), and Pet Supplies (permit #23592). There is also \$500 in overdue invoices for fire inspections, etc.
7. The Town of Warwick General Notes shall be added to the plan.
8. Appropriate notes shall be added to the plan to ensure that a Shopper Safety Plan is submitted at or before the Construction Kickoff meeting.
9. Waivers may be requested from the Town Board in exchange for provisions made for the Marginal Access Road through the property.
10. The proposed lighting must comply with the current Town Code §164-43.4.
11. Applicant to confirm lighting at entrances along accessory building; 5 footcandles are required.
12. Applicant to consider adding the lighting regulations and conformance on Sheet 3 (S1.1); there appears to be room and it will add clarity in the future.
13. A stormwater plan must be submitted in compliance with NYSDEC regulations and Town of Warwick Stormwater Code §164-47.10.
14. Applicant to clarify where snow stockpiling will take place.
15. Where curbs are being relocated, Applicant to consider using Green Infrastructure practices (i.e., depressed curbs, planting islands, etc.).
16. The location of the existing septic system should be shown on the plan, including any information that is known about the septic system.
17. Applicant to confirm that the existing septic is in compliance with the existing SPDES permit and would not require modification (NY0103501).
18. The location of the water tank is shown, but any additional information about the system should be added to the plan.
19. Applicant to confirm that the existing water supply system is in compliance with Orange County Department of Health (OCDOH).
20. The maintenance company for the water and septic systems should be identified.
21. Applicant to clarify locations of the two water supply wells that are located within the parking lot area.
22. The 911 addresses for all businesses on this property must be shown on Sheet 1 in tabular format.
23. Any existing signage must be brought into compliance with the current Town Code, including the monument sign along Route 94.
24. The location of the Marginal Access Road, including the rights-of-way to be dedicated to the Town must be shown on the plan.
25. A Master Sign Plan should be submitted to show signage throughout the project site, including directional information for the Marginal Access Road.

26. The landscaping plan must include notes and a detail for uncompacting soils where plantings are proposed in currently compacting soils (under pavement, etc.). Applicant to show the widths and depths for uncompacting soils on the planting details.
27. Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained."
28. The plan set must include a utility plan that includes drainage, water distribution lines and treatment, septic collection lines and treatment.
29. The plan set states that proposed parking spaces will be 10' x 20'; however the parking spaces are required to be 9' x 18' (§164-22).
30. Applicant to modify the parking lot layout to minimize impacts for entering and exiting traffic, along with showing efforts to improve circulation within the site.
31. Appropriate notes shall be added to the plan to ensure that an MPT Plan is submitted at or before the Construction Kickoff meeting.
32. Provide truck turning diagrams throughout the parking lot to demonstrate that the proper emergency vehicles can travel through the parking lot.
33. The location(s) of any shopping cart storage areas must be added to the plan.
34. The declaration information for the Aquifer and Agricultural Notes must be added to the plans.
35. Surveyor to certify that iron rods have been set at all property corners.
36. Payment of all fees.

The following comment submitted by the CB:

Shop Rite Warwick – None submitted.

The following comment submitted by the ARB:

Shop Rite Warwick – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Showalter: We have a memo from Ted Fink, Greenplan, dated 5/19/16 addressed to the Planning Board. The memo is stated as follows:

I have reviewed the most recent Site Plans for the above ShopRite applications, dated as last revised on April 26, 2016, prepared by The Lauro Group. The only plans provided to me with this date were C0.0, C1.0, C1.1, and TR-1. The following comments are for the Planning Board's consideration. These comments should not be considered all inclusive. I may have additional comments as further information or Plan modifications are provided. The comments represent my professional opinion and are for the Planning Board's consideration. They do not necessarily represent the opinion of the Planning Board, unless accepted by the Board through the review process.

#### **Architectural Design Standards**

The Architectural Review Board has been involved on the review of the proposed architecture to date. I have not reviewed these plans against the Town's Design Standards for architecture but have for other site issues addressed in the Standards.

#### **Marginal Access**

1. The proposed marginal access road will be dedicated to the Town of Warwick as a new Town Road. The Plans should clearly indicate how this new road will be distinguished from the

- parking lot and how drivers will have unimpeded through access, given the potential number of future on-road parking spaces.
2. Signage to be installed in connection with the marginal access road needs to be reviewed and approved.
  3. Street trees along the proposed marginal access road, which are required by the Design Standards (Zoning - Appendix A), need to be shown.
  4. Pedestrian and bicycle accommodations on the marginal access road will need to be shown.

#### **Parking and Traffic**

5. Wheel stops are not shown on the Plans. These are required by § 164-43.2.A(9)(b), unless curbing is used in parking areas.
6. The Full Environmental Assessment Form (EAF) indicates that the proposed project will not “*result in a substantial increase in traffic.*” Data from a reliable source, such as the Institute of Transportation Engineers (ITE) needs to be provided to substantiate this claim.
7. The New York State Department of Transportation (DOT) was not included as an Involved Agency in the EAF. My understanding is that DOT normally wishes to be advised whenever there is a proposed increase in site utilization by a commercial development, regardless of whether an actual permit from DOT is required. Has the applicant forwarded plans or had any discussions with DOT to date?
8. The Town Design Standards call for community gathering places such as benches. Benches should be provided at optimum locations i.e. under shade and near the building entrances.
9. The proposed Plans call for 34 more parking spaces than the Zoning requires. The applicant needs to provide evidence that such an increase in parking spaces is warranted. The Zoning at § 164-43.2.A states that a purpose of the regulations is to ensure that parking lots do not predominate the site, are placed to the side or rear of buildings, feature quality landscaping, and improve the appearance of the Town. Please provide parking generation data, if it differs from ITE survey data,<sup>1</sup> and preferably in the form of on-site parking surveys from Warwick ShopRite or other ShopRite locations. As a general rule, visitor’s perception of parking space availability is almost always different from reality. Other supermarket chains, such as Trader Joes, have a policy of strictly minimizing the number of parking spaces in their lots to what is required by local codes. If the parking lot is indeed full on most occasions, then please provide the typical time needed to find an open parking space.

#### **Landscaping Plan**

10. The proposed plans indicate that the landscaping coverage will be 8.2 percent, where 15 percent is required. If the extra 34 parking spaces were eliminated and replaced with landscaping, would the landscaping coverage comply with Town requirements? If not, how close to the 15 percent minimum would be parking lot be?
11. The proposed parking lot will be non-conforming with the requirements for planting inside parking lots and for planting strips. As above, if the extra 34 parking spaces were eliminated and replaced with landscaping, would these landscaping requirements comply with Town requirements? It should be noted that § 164-43.2.A(4) states that “*Off-street parking in the CB District shall additionally meet the Design Standards found in Appendix A of the Zoning Law.*” [Emphasis added]. In addition, § 164-43.2.A(7) states that “*In parking lots of one acre or more, at least 15% of the area between the inside perimeter of the parking surface of the parking area shall be landscaped and maintained with trees, shrubs and other plant materials, as determined necessary by the*

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<sup>1</sup> The Town’s parking standards are based upon the ITE’s Parking Generation publication.

*Planning Board.*" [Emphasis added]. The Planning Board Attorney may wish to comment on whether there is a need for the applicant to obtain a variance from the Zoning Board in this case.

Mr. Astorino: We need to do a motion for the Type 1 Action.

Mr. McConnell makes a motion for the Type 1 Action.

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

617.6

State Environmental Quality Review (SEQR)

**Resolution Establishing Intent to be Lead Agency**

Type 1 Action

**Name of Action:** ShopRite Expansion

**Whereas**, the Town of Warwick Planning Board is in receipt of a Site Plan/Special Use Permit application by Warwick Market Owners LLC for a ± 10.14 acre parcel of land located at Warwick Turnpike (CR 21) and New Milford Road (NYS 94), Town of Warwick, Orange County, New York; and

**Whereas**, an Environmental Assessment Form (EAF) dated 4/25/16 (and as revised) was submitted at the time of application; and

**Whereas**, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type 1 action because it meets the thresholds found in Parts 617.4(b)(6)(i) and 617.4(b)(8); and

**Whereas**, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed, forwarded to the owners of all farm operations within 500 feet of the site, and then considered by the Planning Board; and

**Whereas**, after examining the EAF, the Planning Board has determined that there are other involved and/or federal agencies on this matter including the Town Board of the Town of Warwick, the Town of Warwick Zoning Board of Appeals, the Orange County Department of Health and Department of Public Works, and the New York State Departments of Environmental Conservation and Transportation.

**Now Therefore Be It Resolved**, that the Planning Board hereby declares its intent to be Lead Agency for the review of this action; and

**Be It Further Resolved**, that the Planning Board hereby authorizes its Chairman to circulate the attached lead agency coordination request letter(s) to all other involved agencies and to discharge any other SEQR responsibilities as are required by 6 NYCRR 617 in this regard; and

**Be It Further Resolved**, that unless an objection to the Planning Board assuming lead agency status is received within thirty (30) days of the date of mailing the EAF, the Planning Board will become lead agency for the review of this action.

Comment #2: Applicant to discuss project.

Dan Peveraro: The proposed application is for a proposed 11,825 square foot addition to the left side of the existing Shop Rite building. They are looking to build a 3,067 square foot front vestibule addition. They are looking to remove the existing Rite Aid building and the removal of the previously proposed paper restaurant pad. We are also looking to make some parking adjustments.

Mr. Astorino: These comments here are basically the same from the last time. Are there any comments here that you would like to touch base on?

Dan Peveraro: This morning we had just submitted revised plans per these comments for your review.

Connie Sardo: That submittal is for the June 6<sup>th</sup> Work Session for the June 15<sup>th</sup> Planning Board Meeting.

Mr. Bollenbach: Are there any comments in particular that you would like to discuss?

Anthony Mole: On Teds Memo & HDR's comments there are comments regarding the marginal access road. It was our understanding until we had seen those comments that the marginal access road was intended to be dedicated to the Town. I did briefly discussed it with the Planning Board's attorney. There are reasons why we don't feel it would benefit the applicant or the Town to have it dedicated. There are other ways that we see of maintaining the marginal access road allowing the Town to get the advantage of having the access without the burden of ownership of it that would make sense. There are a host of issues. I went through a few of them. The way this marginal access road meanders through the lot is not typically required of the Code. The way we all think at this point agree that this is the best place for it.

Mr. Astorino: The Board and our Professionals have looked at the traffic. Is that correct?

Laura Barca: We looked at the parking. We didn't look at the traffic.

Mr. Astorino: Have them look at the traffic.

Laura Barca: There is no traffic to look at.

Mr. Astorino: The marginal access road is going to have traffic going through that parking lot.

Laura Barca: Ok.

Mr. Astorino: I think the Board would like to do a site visit. Let's go out there and see what it is going to be.

Connie Sardo: Does the Board want to do the site visit on Monday, June 06, 2016 before the Work Session?

Mr. Astorino: That would be fine. Does that work for everyone? We will schedule the site visit for Monday, June 06, 2016 at 6:00 p.m.

Mr. McConnell: I am not sure that a site visit at 6 or 6:30 p.m. during a weekday is not an appropriate time to have 10 or 12 people wondering around the parking lot. We may end up needing to do it again. What I would like to suggest because you will be extending the building out if you could with a can of spray paint show where the corners are going to be for that extension so that we could get a sense of how far of an encroachment into the parking lot that is going to be.

Mr. Astorino: That is fine.

Mr. McConnell: The way my schedule is, I don't think I could get there at 6:00pm. At least I could go there on my own and see the markings.

Mr. Astorino: That is fine. The site visit is scheduled for Monday, June 06, 2016 at 6:00 p.m.

Mr. Bollenbach: Just for the Board's information, in Ted's memo regarding the marginal access, that is a provision for the marginal access to be dedicated to the Town. Ted is just reiterating what is in the Code. That will be something that would be up to the Town Board. When ShopRite makes their application to appear before the Town Board for this marginal access, it would be up to the Town Board to accept it. There are ideas that it still accomplished a purpose for which the marginal access was put into the Code to facilitate traffic movement from property to property.

Mr. Astorino: That is fine. We will do the site visit on Monday, June 06, 2016 at 6:00 p.m.

Dan Peveraro: Ok. I had a couple of questions on Ted's memo. I had a question regarding the wheel stops. You would either have curb or the cars are up against each other. I don't see the need for wheel stops in any of these locations. They general inhibit plowing and get in the way.

Mr. Showalter: I agree with that. We do need to talk to Ted about that.

Mr. McConnell: But if it is in the Code, it would be up to us to discuss it. Ted is just pointing it out.

Mr. Showalter: We should all discuss it together.

Dan Peveraro: I don't know if he intends us to have it. But anywhere you would typically use a wheel stop, I generally don't use them at all because of these reasons. Any place that you would typically see them is a place where you could either roll up or block a

sidewalk. We have curbs that would contain them. There is really no need for the wheel stops.

Mr. Showalter: Pricechopper doesn't have them. They have curbs.

Dan Peveraro: In Ted's memo, #6 he is asking what data are we using to substantiate that there is no result in a substantial increase in traffic. The LEAF provides guidance on when you have a substantial increase in traffic. It is based on square footage. The threshold which we are under considering the removal of the Rite Aide building and the paper restaurant. We are using the LEAF instructions on how to complete it. Comment #7 in Ted's memo regarding the NYSDOT, with all the stuff that we are moving, we are only adding a couple thousand square feet of retail in some. We are not really changing anything at either of the entrances. The plans that I have submitted today have a revision that was in response of the traffic engineer's comments that we removed several of the stalls in order to lengthen the throat between Route 94 and the stalls. I know that was brought up by some of the Board members and traffic. We have accommodated that by removing some of these stalls. I don't really see an impact to the DOT from this application.

Mr. Bollenbach: Maybe you could provide us with a narrative response.

Dan Peveraro: Yes. I could do that.

Mr. Astorino: We will talk about this more when we do the site visit.

Dan Peveraro: These are not Planning Board comments. Is that correct?

Mr. Astorino: These are Ted's comments to the Board. We will decide if we want them.

Dan Peveraro: Ok.

Mr. Astorino: We will get more information from our site visit. We will discuss it at the Work Session.

Dan Peveraro: Ok. Taking away parking to add landscaping. We have a letter from ShopRite. ShopRite requires a number of parking stalls.

Mr. Astorino: Really ShopRite is requiring that?

Dan Peveraro: They need them for times like right before holidays and inclement weather. There is an influx of demand that exceeds your typical ITE parking demand which is what the Code is based off of. Removing those would change their financial dynamics on how to pay for this 11,825 square foot addition.

Mr. McConnell: Rewind that. Say that again. The number of parking spaces would affect their ability to pay for this. Is that correct?

Dan Peveraro: It will affect the cost benefit analysis of whether or not this investment in expanding the building...

Mr. McConnell: So three weeks of holiday parking makes up for 49 weeks of empty parking spaces. Is that what you are telling me?

Dan Peveraro: Everything after a holiday is done by receipts. That is how they judge everything. Those days are big money days.

Mr. McConnell: Do you have a copy of that analysis that you could provide to us?

Dan Peveraro: I think that is private.

Mr. McConnell: Then you are asking us to take it on faith.

Dan Peveraro: That letter you have is signed by ShopRite.

Mr. McConnell: But do you understand what I am saying?

Anthony Mole: I understand what you are saying. I think it is a competition issue.

Mr. Astorino: We have a letter from ShopRite. We will review it.

Dan Peveraro: Ok. Your Code based on the Greenplan analysis based off the ITE, the ITE for a shopping center on a Saturday which is peak is approximately 3.9 vehicles per thousand which works out to one stall per 250 which is what your Code says. That is an average Saturday. If you supply that on more than average, you are not going to have enough stalls. On a day before a snowstorm, you will definitely not have enough stalls. You are only going to have enough stalls for your average Saturday peak time. If we just give exactly what the Code says, most of the times it would be ok. But a lot of the time, it will not be ok.

Mr. Astorino: We will review it. We will go from there. Do you have anything further?

Dan Peveraro: We are ok with the rest of the comments.

Mr. Astorino: We will list Comments 3 through 36 for the record. We will do the site visit on June 6, 2016 at 6:00 p.m. We will go from there.

Laura Barca: Comment #6 which relates to the Building Department, I believe the applicant has worked with the Building Department and has satisfied everything except there are currently shopping carts parked on the sidewalk along the side of the building towards Leo Kaytes.

Mr. Astorino: We will take care of that.

Laura Barca: They are not allowed to be stored on the sidewalk on the walking surface of the building.

Mr. Astorino: Ok. You will be back. We will see you at the site visit on June 6, 2016 at 6:00 p.m.

Dan Peveraro: Ok. Thank you.

Comment #3: Conservation Board – 05/17/16 no comments

Comment #4: Architectural Review Board – joint meeting 04/20/16; comments dated 05/06/16

Comment #5: OC Planning Department – 04/29/16 advisory comments on access, wetlands, drainage, lighting, and noise

Comment #6: TW Building Department – 03/30/16 open permits for interior renovations (permit #20405), renovations (permit #21698), remove Provident Bank (permit #21700), repairs (permit #21701), and Pet Supplies (permit #23592). There is also \$500 in overdue invoices for fire inspections, etc.

Comment #7: The Town of Warwick General Notes shall be added to the plan.

Comment #8: Appropriate notes shall be added to the plan to ensure that a Shopper Safety Plan is submitted at or before the Construction Kickoff meeting.

Comment #9: Waivers may be requested from the Town Board in exchange for provisions made for the Marginal Access Road through the property.

Comment #10: The proposed lighting must comply with the current Town Code §164-43.4.

Comment #11: Applicant to confirm lighting at entrances along accessory building; 5 footcandles are required.

Comment #12: Applicant to consider adding the lighting regulations and conformance on Sheet 3 (S1.1); there appears to be room and it will add clarity in the future.

Comment #13: A stormwater plan must be submitted in compliance with NYSDEC regulations and Town of Warwick Stormwater Code §164-47.10.

Comment #14: Applicant to clarify where snow stockpiling will take place.

Comment #15: Where curbs are being relocated, Applicant to consider using Green Infrastructure practices (i.e., depressed curbs, planting islands, etc.).

Comment #16: The location of the existing septic system should be shown on the plan, including any information that is known about the septic system.

Comment #17: Applicant to confirm that the existing septic is in compliance with the existing SPDES permit and would not require modification (NY0103501).

Comment #18: The location of the water tank is shown, but any additional information about the system should be added to the plan.

Comment #19: Applicant to confirm that the existing water supply system is in compliance with Orange County Department of Health (OCDOH).

Comment #20: The maintenance company for the water and septic systems should be identified.

Comment #21: Applicant to clarify locations of the two water supply wells that are located within the parking lot area.

Comment #22: The 911 addresses for all businesses on this property must be shown on Sheet 1 in tabular format.

Comment #23: Any existing signage must be brought into compliance with the current Town Code, including the monument sign along Route 94.

Comment #24: The location of the Marginal Access Road, including the rights-of-way to be dedicated to the Town must be shown on the plan.

Comment #25: A Master Sign Plan should be submitted to show signage throughout the project site, including directional information for the Marginal Access Road.

Comment #26: The landscaping plan must include notes and a detail for uncompacting soils where plantings are proposed in currently compacting soils (under pavement, etc.).

Applicant to show the widths and depths for uncompacting soils on the planting details.

Comment #27: Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”

Comment #28: The plan set must include a utility plan that includes drainage, water distribution lines and treatment, septic collection lines and treatment.

Comment #29: The plan set states that proposed parking spaces will be 10' x 20'; however the parking spaces are required to be 9' x 18' (§164-22).

Comment #30: Applicant to modify the parking lot layout to minimize impacts for entering and exiting traffic, along with showing efforts to improve circulation within the site.

Comment #31: Appropriate notes shall be added to the plan to ensure that an MPT Plan is submitted at or before the Construction Kickoff meeting.

Comment #32: Provide truck turning diagrams throughout the parking lot to demonstrate that the proper emergency vehicles can travel through the parking lot.

Comment #33: The location(s) of any shopping cart storage areas must be added to the plan.

Comment #34: The declaration information for the Aquifer and Agricultural Notes must be added to the plans.

Comment #35: Surveyor to certify that iron rods have been set at all property corners.

Comment #36: Payment of all fees.

**Other Considerations:**

1. Planning Board to cancel the 5/23/16 Work Session & 6/1/16 Planning Board Meeting.

Mr. McConnell makes a motion to cancel the 5/23/16 Work Session and 6/1/16 Planning Board Meeting.

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

2. Planning Board Minutes of 4/20/16 for PB Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 4/20/16.

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

3. **Lands of Mongelluzzo** – Letter from Kirk Rother, P.E. dated 3/31/16 received on 5/23/16 addressed to the Planning Board in regards to the Mongelluzzo Subdivision – requesting a 6-Month Extension on Re-Approval of Final Approval of a proposed 2-Lot Cluster Subdivision, situated on tax parcel SBL 31-2-44.32; parcel located on the south easterly side of Ackerman Road 1200± feet off the intersection of Kings Highway (C.R. 13), in the RU zone, of the Town of Warwick. Conditional Final Approval was granted on 11/5/14. The Applicant has stated that they are in the process of satisfying the conditions of approval. The 6-Month Extension on Re-Approval of Final Approval becomes effective on 5/5/16.

Mr. McConnell makes a motion on the Mongelluzzo Subdivision application, granting a 6-Month Extension on Re-Approval of Final Approval on Final Approval of a proposed 2-Lot Cluster subdivision. Conditional Final Approval was granted on 11/5/14.

The 6-Month Extension on Re-Approval of Final Approval becomes effective on 5/5/16.

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

**Correspondences:**

1. Interpretation Letter from Wayne Stevens, Building Inspector addressed to Planning Board, dated 4/28/16 – in regards to Black Bear Campground project. Letter from Christopher Kleister, Attorney for Black Bear Campground, dated 4/20/16 addressed to the Planning Board.

Mr. Astorino: We have read this letter at the Work Session. Could I have a consensus from the Board to send the letter out to the applicant, Black Bear Campground?

Mr. McConnell: Does our Attorney agree that it requires us to do one of the two things?

Mr. Bollenbach: No. There is no need for the Planning Board to take any action. It would be up to the applicant to either proceed to the ZBA. That would be their administrative remedy.

Mr. McConnell: Right. Because they don't need to have a denial by us in order to do this.

Mr. Bollenbach: They have an interpretation from the Building Department.

Mr. Astorino: That letter is going to be sent to the applicant.

Mr. Bollenbach: Yes.

Mr. Astorino: With a consensus from this Board.

Mr. Bollenbach: Yes.

Mr. Astorino: Do we have a consensus from the Board?

Mr. McConnell: Yes.

Mr. Showalter: I don't. I don't like it.

Mr. Astorino: Do you not like the letter?

Mr. Showalter: I don't like the letter. I just have a problem with the 120-day deal. That is all.

Mr. Astorino: I understand that. But the Code is what it is. The letter is facing what the Code says.

Mr. Kennedy: Yes. I am in consensus.

Mr. Astorino: Yes.

Mr. McDonald: Yes.

Mr. Astorino: Connie, you can send the letter out to the applicant.

Connie Sardo: Ok.

**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 May 25, 2016 Planning Board Meeting.**

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