

TOWN OF WARWICK PLANNING BOARD

June 1, 2011

Members present: Chairman, Benjamin Astorino
Russell Kowal, Dennis McConnell
Roger Showalter, Beau Kennedy
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, June 1, 2011 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

Mr. Astorino: Before we get to the agenda tonight, I would like to make an announcement. One of our long time Planning Board members, Carl Singer, has resigned from the Planning Board. I would like to thank him publically for all the years of his service. I would also like to welcome Beau Kennedy as a full-time Planning Board member who has stepped up from an alternate. Thank you Beau and welcome aboard.

Beau Kennedy: Thank you.

PUBLIC HEARING OF Chill Cellular Corp., c/o Global Tower Partners

Application for Site Plan Approval and Special Use Permit for the “*Renewal*” of the Special Use Permit for the continued use of an existing wireless telecommunications facility, situated on tax parcel S 58 B 1 L 18.22; project located on the eastern side of Pysners Peak 690± feet north of State Highway 17A (15 Pysners Peak), in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Neil Alexander from Cuddy & Feder, LLP.

Connie Sardo: Mr. Chairman, I have just received the certified mailings for the Global Tower public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: 05/31/11 no comments at this time.
4. Architectural Review Board comments: 05/31/11 no comments at this time.
5. Wireless Telecommunication Facility Board comments: (none submitted to date)
6. OCPD: 03/17/11; local determination with no advisory comments
7. Appendix C of the Structural Analysis of the 223-ft tower (Due Diligence Report, 11/12/10) identified deficiencies and recommendations (priority A through E). It is

recommended that the Applicant provide a schedule of how and when these items will be addressed. The post TIA report for the 223-ft tower has not been submitted; report expected 05/27/11.

8. The Applicant will pave 3" thick, 14' wide from Kain Road to the tower location, or other distances as approved by the Planning Board, in such a manner to protect downgradient properties and driveways.
9. Make a good faith update to the current use and maintenance agreement for the private roadway used by Global Tower and three residences.
10. The Applicant should install a gate after the split of the private roadway and the Global Tower driveway.
11. The declaration information for the Private Road Notes must be added to the plan.
12. The declaration information for the Ridgeline Overlay Notes will need to be shown on the drawing. The Applicant has an existing agreement with the Department of the Interior; the notes & restrictions should be shown on the plan, as well as declaration information.
13. Payment of all fees.

Post Approval Notifications to the Tower Owner:

14. In accordance with §164-86.C, the Special Use Permit is valid for 5 years. At that time, the Special Use Permit must either be renewed before the Planning Board or the tower removed.
15. The tower owner, holder of the Special Use Permit, shall submit evidence of compliance with the FCC standards, including Radio Frequency Radiation (RFR), on a yearly basis to the Planning Board (§164-78.D).
16. The tower owner, holder of the Special Use Permit, shall be structurally inspect the tower annually; this report shall be certified by a Professional Engineer (§164-83.B).
17. After Planning Board Approval of a Special Use Permit, (which is valid for 5 years) notification must be given to the Building Department that the Special Use had been renewed.

The following comment submitted by the Conservation Board, dated 6/1/11:

Chill Cellular Corp., c/o Global Tower Partners – CB has no comments.

The following comment submitted by the ARB:

Chill Cellular Corp., c/o Global Tower Partners – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This is a Type 2 Action. It is not subject to SEQR.

Comment #2: Applicant to discuss project.

Neil Alexander: This is a renewal of an existing special use permit for an existing wireless facility that is located on this property. Global Tower owns two towers on approximately 5-acres of property. On the top of the property, there is an existing fenced compound. There are two lattice towers located on the property. One tower is approximately 180 feet tall. The other tower is approximately 223 feet tall. We are seeking to renew the special use permit and site plan approval that exist for Global Tower

operations, first responders and emergency antennas up there as well as other commercial wireless carriers such as Sprint, Nextel, etc... Verizon had an application to the Planning Board. They were supposed to be located on the 223-foot tower. That is what precipitated the renewal of the special use permit.

Comment #3: Conservation Board comments: 05/31/11 no comments at this time.

Comment #4: Architectural Review Board comments: 05/31/11 no comments at this time.

Mr. McConnell: Mr. Chairman, how was Verizon's application precipitating the need for the renewal?

Mr. Astorino: The special use permit became due.

Mr. McConnell: It has nothing to do with Verizon.

Mr. Astorino: Verizon triggered it.

Mr. McConnell: John, did it have anything to do with the renewal?

Mr. Bollenbach: No. The Verizon application is an independent application. However a valid Global Tower permit is a condition precedent.

Comment #5: Wireless Telecommunication Facility Board comments: (none submitted to date)

Comment #6: OCPD: 03/17/11; local determination with no advisory comments.

Comment #7: Appendix C of the Structural Analysis of the 223-ft tower (Due Diligence Report, 11/12/10) identified deficiencies and recommendations (priority A through E). It is recommended that the Applicant provide a schedule of how and when these items will be addressed. The post TIA report for the 223-ft tower has not been submitted; report expected 05/27/11.

Mr. Astorino: Laura, have we seen that yet?

Laura Barca: We have received the report. Mike from our office is a telecommunication engineer had done the review of the report. He said the report is satisfactory.

Mr. Bollenbach: Could we strike comment #7?

Laura Barca: Yes.

Mr. Bollenbach: We will strike comment #7.

Comment #8: The Applicant will pave 3" thick, 14' wide from Kain Road to the tower location, or other distances as approved by the Planning Board, in such a manner to protect downgradient properties and driveways.

Neil Alexander: We asked our paving consultant. You probably know him. His name is Paul Canevari.

Mr. Astorino: Paul Canterbury called me this afternoon. I will be meeting him at the site tomorrow at 8:00 a.m. to walk through it.

Mr. Bollenbach: We could keep that comment as a condition of the approval.

Comment #9: Make a good faith update to the current use and maintenance agreement for the private roadway used by Global Tower and three residences.

Mr. Bollenbach: There is a Use and Maintenance Agreement in place that goes back some time ago. It really isn't that functional. Perhaps add some type of an enforcement mechanism through the Town. Just send something out of a sample to the other property owners. See if they would sign on, make a good faith effort.

Neil Alexander: Could you send us a copy of this?

Mr. Bollenbach: I did send a copy to you last Thursday.

Mr. McConnell: That was discussed at the Work Session.

Mr. Bollenbach: Laura has one in place. Contact Laura about that.

Neil Alexander: Ok.

Comment #10: The Applicant should install a gate after the split of the private roadway and the Global Tower driveway.

Mr. Bollenbach: That was a Town Board concern.

Mr. Astorino: The applicant will install a gate.

Mr. Bollenbach: Yes. We will add to comment #10, provide detail.

Comment #11: The declaration information for the Private Road Notes must be added to the plan.

Neil Alexander: I think they are there.

Laura Barca: I think the Private Road notes are there. It needs to be filed in the County Clerk's office. The declaration information needs to be shown on the plan.

Neil Alexander: I am sure we will work through that.

Mr. Bollenbach: Yes.

Mr. Astorino: Get in touch with Laura on that.

Neil Alexander: Ok.

Comment #12: The declaration information for the Ridgeline Overlay Notes will need to be shown on the drawing. The Applicant has an existing agreement with the Department of the Interior; the notes & restrictions should be shown on the plan, as well as declaration information.

Neil Alexander: That is on there.

Mr. Astorino: Get in touch with Laura on that.

Neil Alexander: Ok.

Comment #13: Payment of all fees.

Neil Alexander: Yes.

Post Approval Notifications to the Tower Owner:

Comment #14: In accordance with §164-86.C, the Special Use Permit is valid for 5 years. At that time, the Special Use Permit must either be renewed before the Planning Board or the tower removed.

Neil Alexander: Yes.

Comment #15: The tower owner, holder of the Special Use Permit, shall submit evidence of compliance with the FCC standards, including Radio Frequency Radiation (RFR), on a yearly basis to the Planning Board (§164-78.D).

Neil Alexander: Yes.

Comment #16: The tower owner, holder of the Special Use Permit, shall be structurally inspect the tower annually; this report shall be certified by a Professional Engineer (§164-83.B).

Neil Alexander: Yes.

Comment #17: After Planning Board Approval of a Special Use Permit, (which is valid for 5 years) notification must be given to the Building Department that the Special Use had been renewed.

Neil Alexander: Yes.

Mr. Astorino: These comments should be placed on the map and complied with.

Mr. Bollenbach: What we will do is have it on the map. It will also be noted to the Building Inspector and to the Wireless Telecommunication Advisory Board. Each year, it would be updated. It is to let the applicant know beforehand that it is coming up. It is to try to maintain a more formal line of communication.

Neil Alexander: That sounds like a great plan.

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

Mr. McConnell: John, are we satisfied with the tower owner that they are one in the same as the holder of the Special Use Permit?

Mr. Bollenbach: Yes.

Mr. McConnell: Ok. I know there were some questions about that at the Work Session. We had one entity that seemed to hold the Real Estate for the benefit of some other entity. I am not sure which entity is which. Who holds the permit? Who holds the real estate?

Mr. Bollenbach: I have been in touch with Debbie Eurich the Town Assessor. The tax bills are going out to the proper entity.

Mr. McConnell: Ok. Did you ever figure out what TIA stands for?

Neil Alexander: It means Telecommunication Industry Association.

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

Peter Pakola: There are two other homeowners here tonight. We received a notice. We have some concerns regarding the paving of the road and runoff. There is water runoff there at the site. We just wanted to know if that was being addressed.

Mr. Astorino: I will be meeting with the contractor tomorrow morning at the site. We could always pitch it so that the trench drains that there installed the water runs.

Mr. Bollenbach: That has already been done by the applicant.

Mr. Astorino: Once the asphalt has been set in place, the water will be diverted. You will never stop the water coming down the hill. That was one of the reasons why we had them put that there. It was because of the latest condition on Kane Road. We had them change a little drainage to the side. It would catch into the trenches. It would then go down Kane Road. As we go up by the tower where the Y is, I think that is where you are talking about.

Peter Pakola: Where the Y is, that is where the 3 houses are located. There is a real low area located there. If you could run it into that low area, then that would be good. Then, it wouldn't run across the road.

Mr. Astorino: Right. That is what we will be doing. Especially where they would be repaving, it would make sense to do that.

Mr. Bollenbach: Ben, are you going to be out to the site tomorrow morning?

Mr. Astorino: I will be out to the site tomorrow morning at 8:00 a.m.

Peter Pakola: Will you be going from Kane Road all the way up to the tower with the paving?

Mr. Bollenbach: That is yet to be determined.

Mr. Astorino: I won't really know until we go out there. But, that is the basic plan.

Peter Pakola: We want to discuss the section from the Y and up.

Mr. Astorino: That would be between you and your neighbors. If you want to meet out there with your own hired contractor and have him go further, that would be up to you and your neighbors.

Peter Pakola: Ok.

Mr. Bollenbach: You could give Paul Canevari a call.

Mr. Astorino: I could give you his number tomorrow. You are welcome to come to the site tomorrow morning at 8:00 a.m.

Peter Pakola: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Global Tower application?

Bill Pysner: Was it mentioned that there would be a gate going up there somewhere?

Mr. Astorino: That would be by the tower.

Mr. Bollenbach: No. The gate would be located where the Y is.

Bill Pysner: There was a gate there years ago.

Mr. Bollenbach: Take a look. Where the Y peeled off there was one on the original plans, a gate about 20 feet in so people could pull up, park, and open the gate. The idea of the gate is to have it as a barricade so it doesn't become a gathering spot or a dumping ground. The Town Police and the Town Board had voiced some concern about that.

Bill Pysner: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Global Tower application? Let the record show no further public comment.

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

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

Mr. Showalter makes a motion on the Chill Cellular Corp., c/o Global Tower Partners application, granting Site Plan Approval and Special Use Permit (Vote 5-0-0) for the **“Renewal”** of the Special Use Permit for the continued use of an existing wireless telecommunications facility, situated on tax parcel S 58 B 1 L 18.22; project located on the eastern side of Pysners Peak 690± feet north of State Highway 17A (15 Pysners Peak), in the MT zone, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

1. The Applicant will pave 3" thick, 14' wide from Kain Road to the tower location, or other distances as approved by the Planning Board, in such a manner to protect downgradient properties and driveways, provide detail.
2. Make a good faith update to the current use and maintenance agreement for the private roadway used by Global Tower and three residences.
3. The Applicant should install a gate after the split of the private roadway and the Global Tower driveway, provide detail.
4. The declaration information for the Private Road Notes must be added to the plan.
5. The declaration information for the Ridgeline Overlay Notes will need to be shown on the drawing. The Applicant has an existing agreement with the Department of the Interior; the notes & restrictions should be shown on the plan, as well as declaration information.
6. Payment of all fees.

Post Approval Notifications to the Tower Owner:

7. In accordance with §164-86.C, the Special Use Permit is valid for 5 years. At that time, the Special Use Permit must either be renewed before the Planning Board or the tower removed.
8. The tower owner, holder of the Special Use Permit, shall submit evidence of compliance with the FCC standards, including Radio Frequency Radiation (RFR), on a yearly basis to the Planning Board (§164-78.D).
9. The tower owner, holder of the Special Use Permit, shall be structurally inspect the tower annually; this report shall be certified by a Professional Engineer (§164-83.B).
10. After Planning Board Approval of a Special Use Permit, (which is valid for 5 years) notification must be given to the Building Department that the Special Use had been renewed.

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

Neil Alexander: Thank you.

Review of Submitted Maps:***Rosemarie Schreibeis Lot Line Change***

Application for Sketch Plat Review of a proposed Lot Line Change, situated on tax parcels S 89 B 2 L 5, 6, & 7; parcels located on the northern side of Wheeler Road at the intersection with Hunt Drive, in the SL zone, of the Town of Warwick.

Representing the applicant: Chris Rainato from Kirk Rother Engineering.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: 05/31/11 letter – no comments at this time
4. Architectural Review Board comments: 05/31/11 email – no comments at this time
5. OCPD GML Review: pending submittal
6. The deed identifies that there are two owners of the property; all owners must sign the application form.
7. Filed Map 3043 (08/10/73) shows that there was a lot line at the rear of Lot 1 (0.93 acres) to form a boundary between Lot 1 and the Park Land parcel (7.66 acres); however, Filed Map 4023 (02/17/77) removed this lot line to create a consolidated parcel of 8.59 acres. Current tax maps show that this lot line was never removed. Map 4023 also contains a map note that “Only one dwelling unit to be permitted on consolidated parcel of 8.59 acres.” Minutes from a 01/05/77 public hearing show that the planning board removed the parkland designation because they felt there was enough other parkland area within the overall Highview Subdivision. Also, the Planning Board Attorney determined on 02/14/80 that because the subdivision map was filed but the deed was never properly filed, that the two parcels are indeed still two parcels; that an Application to the Planning Board and OCDOH approval would determine if the lot were buildable. The Planning Board attorney has reviewed this information and determined that the current owner is entitled to construct a home on the lot currently labeled as Lot 3.
8. Bulk Zoning table should be revised to show what is existing for Lots 1 and 2, including if there are any pre-existing non-confirming setbacks.
9. Show the driveway access, home, well, and septic system locations for Lot 3.
10. Realty Subdivision from OCDOH is required because the lot configuration was previously reviewed and approved by OCDOH (08/10/73 filed map #3043, OCDOH signed drawings on 08/07/73 and 02/17/77 filed map #4023, OCDOH signed drawings on 02/02/77).
11. The soil tests for Lot 3 must be witnessed by OCDOH.
12. The lot line between Lots 1 and 2 should be adjusted so that the garage is located wholly on the property of Lot 1.
13. The well for Lot 1 does not appear to be shown.
14. The septic systems for Lots 2 and 3 do not appear to be shown.
15. A note should be added to the plan stating that if either existing septic system fails that the system will not be replaced in its current location; a new septic system designed in accordance with all applicable standards, including separation distances, soil conditions, appropriate water usage (i.e., if an older home without water saving devices 150 gpd/bedroom should be used), etc. shall be located on the lot.

16. A note should be added to the plan stating that the Planning Board approval of this plat shall not constitute an approval of any site plan features shown on these plans, including encroachments. These features and encroachments are existing conditions that are not being altered by this Planning Board approval.
17. A note shall be added to the plan stating no further subdivision of lots 89-2-5, 89-2-6, and 89-2-7.
18. Sketch showing 135-sf square building areas in accordance with §137-21.K(1) for zoning district SL.
19. A separate description for each of the three lots must be submitted for review and then filed with the Orange County Clerk's Office.
20. Surveyor to certify that iron rods have been set at all property corners.
21. Payment of Recreational Fees.
22. Payment of all fees.

The following comment submitted by the Conservation Board, dated 6/1/11:

Rosemarie Schreibeis – The CB has no comments.

The following comment submitted by the ARB:

Rosemarie Schreibeis – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The applicant has submitted a short EAF. It is an Unlisted Action. I have prepared a Resolution for the Planning Board to determine Lead Agency. There is one notation that I would like to make. The resolution indicates that there are no other involved agencies. But based upon HDR's review, it does look like it will need to be sent to OCHD. The Planning Board could still go ahead and declare itself Lead Agency.

Mr. Kowal makes a motion for Lead Agency.

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

617.6

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

Name of Action: Schreibeis Re-subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Rosemarie Schreibeis for a ± 9.66 acre parcel of land located at Wheeler Road and Hunt Drive, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 04/27/2011 was submitted at the time of application, and

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

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

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

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

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

Comment #2: Applicant to discuss project.

Chris Rainato: We propose a lot line change for 3 lots. The property is located off Hunt Drive and Wheeler Road. We are looking to change two lot lines. One lot line is to accommodate an existing garage. That would put the garage completely on one lot. The other lot line would make the remainder lot a more desirable building lot.

Mr. Bollenbach: I would like to elaborate on that. And to seek approval to make the remainder lot a buildable lot. That is precisely why it has to go to OCHD. It is not just for a lot line between those three separate parcels, it is to make that parcel into a buildable lot.

Chris Rainato: Right.

Mr. Astorino: Laura, do you want to submit the rest of these comments for the record? Are there any comments you want to go through? I know that we have just received a new submittal from them.

Laura Barca: These comments are from the prior submittal, not from the new submittal that we have just received.

Mr. Bollenbach: We could submit the rest of these comments for the record.

Comment #3: Conservation Board comments: 05/31/11 letter – no comments at this time

Comment #4: Architectural Review Board comments: 05/31/11 email – no comments at this time

Comment #5: OCPD GML Review: pending submittal.

Mr. Astorino: We will list comments 6 through 22 for the record. After we review the newly submitted plans, there will be new comments made up.

Mr. Bollenbach: Ben, you might just want to read comment #7. Laura has done some extensive research on that. She has done a nice job on that.

Mr. Astorino: Ok.

Comment #6: The deed identifies that there are two owners of the property; all owners must sign the application form.

Comment #7: Filed Map 3043 (08/10/73) shows that there was a lot line at the rear of Lot 1 (0.93 acres) to form a boundary between Lot 1 and the Park Land parcel (7.66 acres); however, Filed Map 4023 (02/17/77) removed this lot line to create a consolidated parcel of 8.59 acres. Current tax maps show that this lot line was never removed. Map 4023 also contains a map note that "Only one dwelling unit to be permitted on consolidated parcel of 8.59 acres." Minutes from a 01/05/77 public hearing show that the planning board removed the parkland designation because they felt there was enough other parkland area within the overall Highview Subdivision. Also, the Planning Board Attorney determined on 02/14/80 that because the subdivision map was filed but the deed was never properly filed, that the two parcels are indeed still two parcels; that an Application to the Planning Board and OCDOH approval would determine if the lot were buildable. The Planning Board attorney has reviewed this information and determined that the current owner is entitled to construct a home on the lot currently labeled as Lot 3.

Mr. Astorino: Laura, you have done a nice job on that. Thank you for that.

Laura Barca: You are welcome.

Mr. Astorino: We will list comments 8 through 22 for the record.

Comment #8: Bulk Zoning table should be revised to show what is existing for Lots 1 and 2, including if there are any pre-existing non-confirming setbacks.

Comment #9: Show the driveway access, home, well, and septic system locations for Lot 3.

Comment #10: Realty Subdivision from OCDOH is required because the lot configuration was previously reviewed and approved by OCDOH (08/10/73 filed map #3043, OCDOH signed drawings on 08/07/73 and 02/17/77 filed map #4023, OCDOH signed drawings on 02/02/77).

Comment #11: The soil tests for Lot 3 must be witnessed by OCDOH.

Comment #12: The lot line between Lots 1 and 2 should be adjusted so that the garage is located wholly on the property of Lot 1.

Comment #13: The well for Lot 1 does not appear to be shown.

Comment #14: The septic systems for Lots 2 and 3 do not appear to be shown.

Comment #15: A note should be added to the plan stating that if either existing septic system fails that the system will not be replaced in its current location; a new septic system designed in accordance with all applicable standards, including separation distances, soil conditions, appropriate water usage (i.e., if an older home without water saving devices 150 gpd/bedroom should be used), etc. shall be located on the lot.

Comment #16: A note should be added to the plan stating that the Planning Board approval of this plat shall not constitute an approval of any site plan features shown on these plans, including encroachments. These features and encroachments are existing conditions that are not being altered by this Planning Board approval.

Comment #17: A note shall be added to the plan stating no further subdivision of lots 89-2-5, 89-2-6, and 89-2-7.

Comment #18: Sketch showing 135-sf square building areas in accordance with §137-21.K(1) for zoning district SL.

Comment #19: A separate description for each of the three lots must be submitted for review and then filed with the Orange County Clerk's Office.

Comment #20: Surveyor to certify that iron rods have been set at all property corners.

Comment #21: Payment of Recreational Fees.

Comment #22: Payment of all fees.

Mr. Bollenbach: Does the Board want to make a motion to set this application for a Preliminary Public Hearing? The next time they appear, they would be eligible to have a Preliminary Public Hearing.

Mr. Astorino: I don't have any problems in doing that.

Mr. McConnell makes a motion to set the Rosemarie Schreibeis application for a Preliminary Public Hearing at the next available agenda.

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

Mr. Bollenbach: Connie, you will need to get in touch with Kirk to get all of the proper applications and fees from him.

Connie Sardo: Ok.

Laura Barca: Ben, comment #21 regarding payment of recreational fees, that was to the fact that we are creating a new buildable lot.

Mr. Astorino: There will be parkland fees.

Laura Barca: Yes. There will be parkland fees for one lot.

Mr. Astorino: Ok.

Chris Rainato: Thank you.

McFarland Subdivision #3

Application for Sketch Plat Review of a proposed 4-Lot (**MAJOR**) subdivision, situated on tax parcel S 54 B 1 L 4; parcel located on the northern side of State Highway 17A 300± east of Forester Avenue, in the SM zone. Previously discussed at the 11/3/10 Planning Board meeting.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: 11/01/10 letter close attention to potential archeological concerns; 05/31/11 It is believed that there are wetlands/streams that should be mapped and protected.
4. Architectural Review Board comments: 05/31/11 no comments at this time.
5. OCPD: 11/12/10, two advisory comments relating to pond maintenance and pedestrian access (sidewalks).
6. Applicant needs to submit to NYSDOT so that NYS Office of Parks, Recreation & Historic Preservation (SHPO) can determine if they require additional information.
7. The Applicant should prepare and submit a Biodiversity Assessment for the property.
8. Leyland Alliance (current owner of McFarland Drive):
 - a. Driveway Access for Lot 1.
9. Village of Warwick:
 - a. Location of water main easement from Well #3 to microfiltration facility
 - b. Driveway Access for Lot 1 on Future Village Road
 - c. Easement for 24" pipe from Well #3 to Homestead Village, if not already in place
 - d. Applicant to confirm that the culvert for the stream on Lot 1 is within the right-of-way and there is enough room to conduct maintenance of the culvert
10. The Applicant must comply with all comments in the Village of Warwick Planning Board letter to the Town of Warwick Planning Board, dated 11/19/10.
11. The owner and the entity responsible for maintenance of the Homestead Village water main (24") should be called out on the drawing.
12. The basis of the location shown for the Homestead Village water main (i.e., the survey) should be shown.
13. A note should be added to the plan stating that the portions of the Lots 2 and 3 within the Village will not be proposed as home sites in the future; these portions of the lots are part of the Town lots and the homes are existing/proposed within the Town.
14. A 200-ft radius around Village Well #3 should be shown on the drawing with no disturbance proposed within that radius.
15. NYSDOT: Driveway entrance permit for Lot 2 to Route 17A.
16. The lot line change between this McFarland property and the Methodist Episcopal Church of Warwick received conditional final approval from the Planning Board on December 01, 2011; the conditions have not been satisfied.
17. The Applicant should add the full road width of McFarland Drive and the location of the library driveway.
18. The well symbol should be clarified and included in the legend.
19. On the easterly side of Lot 2, the drain pipe on sheet 2 should be shown in more detail on Sheet 3 (material, diameter, etc.).

20. The soils mapping sheet should be included in the overall plan set.
21. The drawing should prominently state the following note: Lots 3 and 4 are not for building purposes at this time. Planning Board approval will be required, including (but not limited) access to the lot, soil test witnessing, wetland and stream investigations, and biodiversity compliance with the Town Code even if only one home is constructed on each lot. Access onto McFarland Drive for Lot 4 must be reviewed and approved by the owner of the road & the Village of Warwick.
22. There is an existing fence line on Lots 1 and 2; the Applicant must clarify at what time and who will be responsible for the removal of this fence line.
23. There is an existing culvert (8" PVC pipe) extending from the pond on Lot 3 onto Lot 2; an easement agreement must be prepared and submitted for future maintenance.
24. A maintenance agreement for the pond on Lots 1 and 2 must be prepared and submitted.
25. There is a drainage corridor that travels from Route 17A to McFarland Drive. These drainage features must remain in a free-flowing manner. An overall maintenance easement and/or agreement should be in place for Lots 1, 2, and 3.
26. File all easements (e.g., 6" and 24" water mains) with metes and bounds & maintenance agreements (e.g., drainage and pond) in the Orange County Clerk's Office.
27. The declaration information for the Agricultural and Aquifer Notes will need to be shown on the drawing.
28. Surveyor to certify that iron rods have been set at all property corners.
29. Payment of Recreation Fee.
30. Payment of all fees.

The following comment submitted by the Conservation Board, dated 6/1/11:

McFarland Subdivision #3 – It is believed that there are wetlands/streams on this site that should be mapped and protected.

The following comment submitted by the ARB:

McFarland Subdivision #3 – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has declared Lead Agency on this application. We had done a circulation for Lead Agency. There was no competition for Lead Agency. The Planning Board automatically becomes Lead Agency. There are some SEQRA comments in the review comments tonight that we are still waiting for information.

Comment #2: Applicant to discuss project.

Karen Emmerich: The McFarland Farm that borders Route 17A and McFarland Drive; the brothers are subdividing that property into 2 building lots. Then there would be 2 large remainder lots. One of the lots has a farm operation on it. The other lot is not for building purposes at this time.

Comment #3: Conservation Board comments: 11/01/10 letter close attention to potential archeological concerns; 05/31/11 It is believed that there are wetlands/streams that should be mapped and protected.

Karen Emmerich: As far as the archeology goes, we had a full archeological study done. We had submitted that study to the State. Ted, I believe you have a copy of that.

Mr. Fink: Yes.

Karen Emmerich: I believe there were no additional concerns.

Mr. Fink: The letter that we received from the State, I would not call it a crystal clear letter that I have seen. The NYS Office of Parks, Recreation and Historic Preservation, what they had said in their letter dated 2/16/11 is if any State or Federal Agencies involved further review may be required in accordance with Section 14.09 of NYS Parks, Recreation and Historic Preservation Law. I think one of the comments we have is to submit this to the NYSDOT so we could get a determination to see if they would require anything further.

Mr. Astorino: Ok.

Comment #4: Architectural Review Board comments: 05/31/11 no comments at this time.

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

Karen Emmerich: I never received those OCPL comments. Could you email them to me?

Connie Sardo: Yes. I could do that. Didn't OCPL send you a copy? When I send out to OCPL, I always mark on the form to send a copy to the Engineer.

Karen Emmerich: Usually they do send me a letter. This time, I did not get one.

Connie Sardo: Call me in the morning to remind me to send one to you.

Karen Emmerich: Ok.

Comment #6: Applicant needs to submit to NYSDOT so that NYS Office of Parks, Recreation & Historic Preservation (SHPO) can determine if they require additional information.

Karen Emmerich: Right. There may be artifacts in the R.O.W.

Comment #7: The Applicant should prepare and submit a Biodiversity Assessment for the property.

Karen Emmerich: Ted, would you give us some guidance on that? That is sort of new to us.

Mr. Fink: Yes. Give me a call.

Karen Emmerich: Ok.

Comment #8: Leyland Alliance (current owner of McFarland Drive):

- a. Driveway Access for Lot 1.

Karen Emmerich: Yes.

Mr. Astorino: Regarding comment #9, are these comments from the Village of Warwick?

Laura Barca: No. These are items that need to be coordinated with the Village.

Mr. Astorino: Ok.

Comment #9: Village of Warwick:

- a) Location of water main easement from Well #3 to microfiltration facility

Karen Emmerich: Right. There is some debate about whether the Village still wants that or not. We will send them a letter to find out what their intentions are.

- b) Driveway Access for Lot 1 on Future Village Road

Karen Emmerich: Ok.

- c) Easement for 24" pipe from Well #3 to Homestead Village, if not already in place

Mr. Bollenbach: Laura, could you verify the 24" pipe?

Laura Barca: It is a 24" pipe. There are a lot of people.

- d) Applicant to confirm that the culvert for the stream on Lot 1 is within the right-of-way and there is enough room to conduct maintenance of the culvert

Karen Emmerich: Right. I will talk to them about that.

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

Karen Emmerich: Ok.

Comment #11: The owner and the entity responsible for maintenance of the Homestead Village water main (24") should be called out on the drawing.

Karen Emmerich: Ok.

Comment #12: The basis of the location shown for the Homestead Village water main (i.e., the survey) should be shown.

Karen Emmerich: The survey will be signed and sealed by the Surveyor. What more do you want as per the location shown for the water main?

Laura Barca: The location of the pipe looks a little awkward not like you would actually lay it in the field. Do you know what I mean?

Karen Emmerich: It is what it is.

Laura Barca: Right.

Mr. McConnell: The question sounds like, is it what it is?

Mr. Bollenbach: They want verification.

Laura Barca: If there is not a current easement for that 24" main, and they want to put one in, we want to make sure where we put the easement where the pipe actually is.

Karen Emmerich: I will check with John on that.

Comment #13: A note should be added to the plan stating that the portions of the Lots 2 and 3 within the Village will not be proposed as home sites in the future; these portions of the lots are part of the Town lots and the homes are existing/proposed within the Town.

Mr. Bollenbach: We had encountered this with the Town of Warwick and the Town of Chester on the Leritz project.

Laura Barca: I took a look at that. There weren't any better notes on that.

Mr. Bollenbach: It is in a declaration format.

Laura Barca: Ok.

Mr. Bollenbach: We could pull those declarations from Leritz Subdivision. We could use that as a template.

Laura Barca: Ok.

Karen Emmerich: That would be fine.

Comment #14: A 200-ft radius around Village Well #3 should be shown on the drawing with no disturbance proposed within that radius.

Laura Barca: Ok.

Comment #15: NYSDOT: Driveway entrance permit for Lot 2 to Route 17A.

Laura Barca: Yes. That is what we want to do. We will send to NYSDOT.

Comment #16: The lot line change between this McFarland property and the Methodist Episcopal Church of Warwick received conditional final approval from the Planning Board on December 01, 2011; the conditions have not been satisfied.

Mr. Showalter: No. It did not. They received conditional final approval on December 1, 2010. That is a typographical error.

Laura Barca: I stand corrected. Since they received conditional final approval on 12/1/10, they should be coming up for 6-month extension in June of 2011. We could then ask them what their plans are.

Mr. Astorino: Ok. Good.

Comment #17: The Applicant should add the full road width of McFarland Drive and the location of the library driveway.

Karen Emmerich: Ok.

Comment #18: The well symbol should be clarified and included in the legend.

Karen Emmerich: Will do.

Comment #19: On the easterly side of Lot 2, the drain pipe on sheet 2 should be shown in more detail on Sheet 3 (material, diameter, etc.).

Karen Emmerich: Ok.

Comment #20: The soils mapping sheet should be included in the overall plan set.

Karen Emmerich: We gave to you a separate soil sheet. Do you want it all in one set?

Laura Barca: Yes.

Karen Emmerich: Ok.

Comment #21: The drawing should prominently state the following note: Lots 3 and 4 are not for building purposes at this time. Planning Board approval will be required, including (but not limited) access to the lot, soil test witnessing, wetland and stream investigations, and biodiversity compliance with the Town Code even if only one home is constructed on each lot. Access onto McFarland Drive for Lot 4 must be reviewed and approved by the owner of the road & the Village of Warwick.

Karen Emmerich: Ok. Wouldn't that note just apply to Lot 4? There is an existing dwelling and a farm operation already on Lot 3. Nothing could be built on there anyway, unless they subdivide it.

Laura Barca: Do they have an access onto McFarland Drive from Lot 3? Is there a residence on Lot 3?

Karen Emmerich: There is a residence on Lot 3. The driveway is shown next to the dwelling.

Laura Barca: I will have to take a look at that.

Karen Emmerich: Ok.

Comment #22: There is an existing fence line on Lots 1 and 2; the Applicant must clarify at what time and who will be responsible for the removal of this fence line.

Karen Emmerich: Ok.

Comment #23: There is an existing culvert (8" PVC pipe) extending from the pond on Lot 3 onto Lot 2; an easement agreement must be prepared and submitted for future maintenance.

Karen Emmerich: Ok.

Comment #24: A maintenance agreement for the pond on Lots 1 and 2 must be prepared and submitted.

Karen Emmerich: Ok.

Comment #25: There is a drainage corridor that travels from Route 17A to McFarland Drive. These drainage features must remain in a free-flowing manner. An overall maintenance easement and/or agreement should be in place for Lots 1, 2, and 3.

Karen Emmerich: Ok.

Comment #26: File all easements (e.g., 6" and 24" water mains) with metes and bounds & maintenance agreements (e.g., drainage and pond) in the Orange County Clerk's Office.

Karen Emmerich: Ok.

Comment #27: The declaration information for the Agricultural and Aquifer Notes will need to be shown on the drawing.

Karen Emmerich: Ok.

Comment #28: Surveyor to certify that iron rods have been set at all property corners.

Karen Emmerich: Ok.

Comment #29: Payment of Recreation Fee.

Karen Emmerich: Ok.

Comment #30: Payment of all fees.

Karen Emmerich: Ok.

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

Mr. Bollenbach: I wanted to bring one item to the Board's attention. Regarding comment #20 the soils mapping, the 2 large remainder lots where they are not for building purposes at this time. Rather than requiring an overall development plan showing that it is accessible and that it could be developed, I was concerned that the soils that are mapped on there; does it show the ample area for septic to be installed at a later date on those 2 remainder lots?

Karen Emmerich: I think so.

Mr. Bollenbach: Just take a look at that. You will need to verify that. If there are ample percable soils, there would be no need to do a perc and deep at this time.

Mr. Astorino: You weren't going to do a deep test now. Is that correct?

Karen Emmerich: We were going to do that now. We have 3 existing.

Mr. Bollenbach: I know it exists. I want to have them as a potential buildable lot so there are adequate soils to support septic.

Laura Barca: Karen is correct that Lot 3 does have the vast majority of all the existing homes and barns that you see being used are actually on Lot 3.

Mr. Bollenbach: Ok. Lot 3 is fine. What about Lot 4?

Laura Barca: That would be a valid question for Lot 4.

Mr. Bollenbach: Ok. You will need to verify one way or another. You could use the ECF or actually do the test.

Mr. Astorino: Ok. Does the Board have anything further? Are we to far off on setting this application for a preliminary public hearing?

Mr. Bollenbach: As long they get everything together, we could set it for a preliminary public hearing.

Mr. Astorino: It would save you a meeting from coming back.

Karen Emmerich: Right. That is fine by me.

Mr. Showalter makes a motion to set the McFarland Subdivision #3 for a Preliminary Public Hearing at the next available agenda?

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

Karen Emmerich: Thank you.

Other Considerations:

1. Planning Board to discuss cancelling the 6/27/11 Work Session & 7/6/11 Planning Board meeting due to the July 4th Holiday.

Mr. McConnell makes a motion to cancel the 6/27/11 Work Session and the 7/6/11 Planning Board meeting.

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

2. Planning Board Minutes of 5/4/11 – Planning Board Minutes of 5/4/11 for Planning Board's Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 5/4/11.

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

3. **Lands of Mongelluzzo** – Letter from Kirk Rother, P.E., dated 5/20/11 addressed to the Planning Board in regards to the Mongelluzzo Subdivision – requesting a 7th 6-Month Extension on Preliminary Approval of a proposed 2-Lot Cluster subdivision, situated on tax parcel SBL # 31-2-44.32; parcel located on the southeasterly side of Ackerman Road 1200± feet off the intersection of Kings Highway (C.H. 13), in the RU zone, of the Town of Warwick. Preliminary Approval was granted on, 11/21/07. *The applicant has stated that the project has now received the NYSDEC Stream-Crossing Permit. They will be submitting the application for final approval within the next 30 days.* The 7th 6th Month Extension becomes effective on, 5/21/11.

Mr. McConnell makes a motion on the Lands of Mongelluzzo, granting a 7th 6-Month Extension on Preliminary Approval of a proposed 2-Lot Cluster subdivision, SBL # 31-2-44.32. Preliminary Approval was granted on, 11/21/07. The 7th 6-Month Extension becomes effective on, 5/21/11.

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 June 1, 2011 Planning Board meeting.

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