

TOWN OF WARWICK PLANNING BOARD

June 18, 2014

Members present: Chairman, Benjamin Astorino  
Dennis McConnell, Beau Kennedy,  
Christine Little, 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, June 18, 2014 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 William and Marie Van Houten**

Application for Preliminary Approval of a proposed 2-Lot (Major) subdivision, situated on tax parcel S 40 B 1 L 9.3; parcel located on the eastern side of Ryerson Road 580± feet north of Rutherford Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. The proposed subdivision was classified by the Town of Warwick Planning Board, acting as Lead Agency under the State Environmental Quality Review Act (SEQR), as an Unlisted Action on April 2, 2014.

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

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Van Houten 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: 03/31/14 no comments
4. Architectural Review Board comments: pending
5. OC Planning Department: 03/31/14 two advisory comments: shared driveway agreement and property must remain in agricultural production or be removed from the County program
6. Building Department: Records show that there are open permits for a ~~well, a horse barn, a shed and porch~~, and an addition to a farm structure.
7. There is a small shed that encroaches on the neighboring parcel (40-1-9.1) by 5.1-ft. Applicant to clarify status of this shed and a means to rectify the encroachments.
8. Metes and bounds will need to be shown along the new property line. It may be helpful to provide a 50 scale drawing of the developed portion of the project area.
9. Metes and bounds will need to be shown along the shared driveway easement.
10. Applicant to clarify which property will own and maintain the trees along the new property line.
11. Ten-ft contours are shown on the plan; it is recommended that two-ft contours are shown especially in the area of the proposed septic area.

12. Applicant to clarify the purpose of the utility boxes, including what they are used for and who needs access to them.
13. A detail must be included showing the cross section for the first 25-ft of the driveway that must be paved. The minimum width of the driveway at the intersection with Town Road must be 15-ft (§A168-19).
14. 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 to plans on Sheet 1, Note 12).
15. The height of the retaining wall should be clarified. A setback of 5’ may be required from the new property line if wall is greater than 4’ tall.
16. Shared driveway agreement to be prepared to the Planning Board Attorney’s specifications.
17. Surveyor to certify that iron rods have been set at all property corners.
18. Payment in lieu of parkland fees per §75-3.A(2)(a)(3) for 1 lot.
19. The declaration for the roadway dedication, Agricultural notes, and shared driveway easement must be added to the plans.
20. Payment of all fees.

The following comment submitted by the Conservation Board:

William and Marie Van Houten – None submitted.

The following comment submitted by the ARB:

William and Marie Van Houten – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. McConnell: This SEQR comment has been prepared by Mr. Ted Fink, dated 6/18/14: *“This is an Unlisted Action and the Board declared itself Lead Agency on April 2, 2014. The site contains protected surface waters but they are located more than 400 feet from the proposed construction activity. The site is also within the Town Agricultural Protection Overlay District and map notes have been properly placed onto the subdivision plans and an Agricultural Data Statement has been filed. No other SEQR issues arose during the review of the application. A draft Negative Declaration has been prepared for the Board’s consideration.”*

Comment #2: Applicant to discuss project.

Karen Emmerich: We are proposing a 2-lot subdivision on a 58-acre parcel. The existing house will be on its own lot which is 4.3 acres. The balance of the property would remain as agricultural use which is 53.8 acres. We do show the existing garage to be converted into a dwelling. We don’t know if that would actually happen or not.

Mr. Astorino: Ok.

Comment #3: Conservation Board comments: 03/31/14 no comments

Comment #4: Architectural Review Board comments: pending

Comment #5: OC Planning Department: 03/31/14 two advisory comments: shared driveway agreement and property must remain in agricultural production or be removed from the County program

Karen Emmerich: Yes. We understand that.

Mr. McConnell: Could I have an explanation on what the County's program is?

Mr. Astorino: I have no clue.

Mr. McConnell: Ok.

Mr. Bollenbach: It depends if it is removed from the Orange County Agricultural District #2 or be removed from Ag assessment.

Mr. Astorino: This is the first that I have ever seen a comment like this.

Mr. Bollenbach: Yes.

Mr. McConnell: That was why I asked.

Mr. Bollenbach: It is really irrelevant.

Mr. Astorino: Yes. I agree.

Comment #6: Building Department: Records show that there are open permits for a ~~well, a horse barn, a shed and porch~~, and an addition to a farm structure.

Mr. Astorino: Laura, I see you have some stuff crossed off. Are they stricken?

Laura Barca: The ones that are crossed off they have completed already.

Mr. Astorino: Ok. So there is an open permit for an addition. They are working on that through the Building Department.

Karen Emmerich: Ok.

Laura Barca: They are waiting for the electrical inspection sticker. They are close to being done.

Mr. Astorino: You are right.

Karen Emmerich: Ok.

Comment #7: There is a small shed that encroaches on the neighboring parcel (40-1-9.1) by 5.1-ft. Applicant to clarify status of this shed and a means to rectify the encroachments.

Karen Emmerich: The shed is collapsing. It is near collapsing.

Mr. Bollenbach: Is the shed going to be removed?

Karen Emmerich: I don't know. It is not entirely on Bill's property.

Mr. Bollenbach: Whose shed is it? Maybe you could find out and remove it.

Mr. Astorino: We will hold that one until we get the public's comment.

Comment #8: Metes and bounds will need to be shown along the new property line. It may be helpful to provide a 50 scale drawing of the developed portion of the project area.

Karen Emmerich: Yes.

Comment #9: Metes and bounds will need to be shown along the shared driveway easement.

Karen Emmerich: Yes.

Comment #10: Applicant to clarify which property will own and maintain the trees along the new property line.

Karen Emmerich: Yes.

Comment #11: Ten-ft contours are shown on the plan; it is recommended that two-ft contours are shown especially in the area of the proposed septic area.

Karen Emmerich: We do show that. It is on Sheet 2.

Laura Barca: Ok.

Comment #12: Applicant to clarify the purpose of the utility boxes, including what they are used for and who needs access to them.

Karen Emmerich: Yes.

Comment #13: A detail must be included showing the cross section for the first 25-ft of the driveway that must be paved. The minimum width of the driveway at the intersection with Town Road must be 15-ft (§A168-19).

Karen Emmerich: I thought we had shown that on the plans. It is approximately 29 feet wide. We show it with pavers.

Mr. Astorino: Yes. That is acceptable.

Comment #14: 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 to plans on Sheet 1, Note 12).

Karen Emmerich: It's on Sheet 1.

Comment #15: The height of the retaining wall should be clarified. A setback of 5' may be required from the new property line if wall is greater than 4' tall.

Laura Barca: In your response letter, it was probably an accident. You wrote no walls over 5-feet. The requirement is 4 feet. If they are over 4 feet, then you are required to have a setback of 5 feet.

Karen Emmerich: Right. I thought I made it clear but maybe not. I will double check. The stonewall that is closest to the property line is under 4 feet. There is one section of the stonewall that is closest to the house, I think is roughly 5 feet.

Laura Barca: Ok.

Comment #16: Shared driveway agreement to be prepared to the Planning Board Attorney's specifications.

Karen Emmerich: Yes.

Comment #17: Surveyor to certify that iron rods have been set at all property corners.

Karen Emmerich: Yes.

Comment #18: Payment in lieu of parkland fees per §75-3.A(2)(a)(3) for 1 lot.

Karen Emmerich: Ok. He is aware of it.

Comment #19: The declaration for the roadway dedication, Agricultural notes, and shared driveway easement must be added to the plans.

Karen Emmerich: Right. I believe he does not want to do the roadway dedication.

Comment #20: Payment of all fees.

Karen Emmerich: Yes.

Mr. Astorino: Do any Board members or Professionals have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Van Houten application, please rise and state your name for the record.

Alice and Drew Ackerman come up to address the Board.

Drew Ackerman: You mentioned something about the shed.

Mr. Astorino: Yes.

Drew Ackerman: The shed is split in the property line. What is going to be done to that?

Mr. Bollenbach: Is it your property that is adjoining?

Drew Ackerman: Yes. The property line went right through the center of it.

Mr. Bollenbach: Is that your shed or the neighbors shed?

Drew Ackerman: It is our shed.

Alice Ackerman: It had belong to my Grandparents and my Father.

Drew Ackerman: It is an old milk house. I don't know how it got thrown in the center of the property line.

Mr. Astorino: Is this something that you wish to have it remain there?

Drew Ackerman: Yes. For the moment we would like it to remain there.

Mr. Astorino: If Mr. and Mrs. Van Houten don't have a problem with it. I don't see why not.

Drew Ackerman: We could talk to Mr. and Mrs. Van Houten about it.

Mr. Astorino: I don't see any issues with it. John, what is your opinion?

Mr. Bollenbach: I haven't looked at it. I don't know if it is an unsafe structure.

Drew Ackerman: No. It is not. It is just not being used per say.

Mr. Astorino: I don't see any issues with it. Do any Board members have any comments or concerns?

Mr. Bollenbach: We can strike that comment about the shed.

Mr. Astorino: If that is something you could work out with your neighbor, I don't see any problem with keeping it.

Drew Ackerman: We have a good relationship with them.

Mr. Astorino: Ok. Do you have anything else?

Mr. McConnell: Do you agree that it is collapsing?

Drew Ackerman: No. It is all in disrepair but it is not collapsing.

Mr. McConnell: Ok. Karen, have you looked at this?

Karen Emmerich: Yes. I thought it was in pretty rough shape.

Drew Ackerman: The framework on it is fine.

Alice Ackerman: It needs a new floor.

Drew Ackerman: It is not collapsing.

Mr. Astorino: Ok. Do you have anything else?

Alice Ackerman: This brings back a lot of things from 30 years ago from the sale of the property. It has been in the family for many years. I'm still hurting over it.

Mr. Astorino: No. It doesn't seem like they will be doing anything major at all.

Drew Ackerman: Wonderful. We thought there was going to be a row of about a dozen houses going in.

Mr. Astorino: No. Not at all.

Alice Ackerman: It is really good rich farmland. Thank you.

Drew Ackerman: Thank you.

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

Mr. McConnell makes a motion for the Negative Declaration.

Seconded by Ms. Little. Motion carried 5-Ayes.

617.12(b)

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

**Name of Action:** Van Houten Subdivision

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

**Whereas**, there are no other involved agencies pursuant to SEQR, and

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated March 12, 2014, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Ms. Little makes a motion on the William and Marie Van Houten application, granting Preliminary Approval of a proposed 2-Lot subdivision, situated on tax parcel S 40 B 1 L 9.3; parcel located on the eastern side of Ryerson Road 580± feet north of Rutherford Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on June 18, 2014.

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

Karen Emmerich: We would like to request to waive the Final public hearing.

Mr. Astorino: I don't see why not.

Mr. McConnell makes a motion to waive the Final public hearing.

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

Ms. Little makes a motion on the William and Marie Van Houten application, granting Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 40 B 1 L 9.3; parcel located on the eastern side of Ryerson Road 580± feet north of Rutherford Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on June 18, 2014. Approval is granted subject to the following conditions:

1. Building Department: Records show that there are open permits for an addition to a farm structure.
2. Metes and bounds will need to be shown along the new property line. It may be helpful to provide a 50 scale drawing of the developed portion of the project area.
3. Metes and bounds will need to be shown along the shared driveway easement.
4. Applicant to clarify which property will own and maintain the trees along the new property line.
5. Ten-ft contours are shown on the plan; it is recommended that two-ft contours are shown especially in the area of the proposed septic area.
6. Applicant to clarify the purpose of the utility boxes, including what they are used for and who needs access to them.
7. A detail must be included showing the cross section for the first 25-ft of the driveway that must be paved. The minimum width of the driveway at the intersection with Town Road must be 15-ft (§A168-19).
8. 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 to plans on Sheet 1, Note 12).
9. The height of the retaining wall should be clarified. A setback of 5' may be required from the new property line if wall is greater than 4' tall.

10. Shared driveway agreement to be prepared to the Planning Board Attorney's specifications.
11. Surveyor to certify that iron rods have been set at all property corners.
12. Payment in lieu of parkland fees per §75-3.A(2)(a)(3) for 1 lot.
13. The declaration for the roadway dedication, Agricultural notes, and shared driveway easement must be added to the plans.
14. Payment of all fees.

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

Karen Emmerich: Thank you.

**Other Considerations:**

1. Planning Board Minutes of 5/7/14 for PB Approval

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 5/7/14.

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

2. Planning Board to discuss canceling the 6/23/14 Work Session & 7/2/14 Planning Board Meeting due to the 4<sup>th</sup> of July Holiday.

Ms. Little makes a motion to cancel the 6/23/14 Work Session and 7/2/14 Planning Board Meeting.

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

3. **WVLDC Lot #1 Subdivision** – Letter from Robert Krahulik, Attorney addressed to the Planning Board, dated 5/30/14 in regards to the WVLDC Lot #1 Subdivision – requesting a 6-Month Extension on conditional Final Approval of a proposed 10-Lot subdivision and an application for Site Plan Approval and Special use permit for the construction and use of special use #19, 43, & 57, situated on tax parcel SBL #46-1-9.1; parcel located on the western side of State School Road 3200 feet south of Kings Highway, in the OI zone, of the Town of Warwick. Conditional Final Approval was granted on 11/6/13. *The Applicant has stated that the details of completing and satisfying all the conditions are rather complicated, time-consuming and expensive. Therefore, the Applicant is requesting the extension.* The 6-Month Extension becomes effective on 5/6/14.

Mr. McConnell: Mr. Chairman, I would like to put on the record that I am of Council for the firm Beatty & Krahulik. I will recuse myself from any votes. I did have a discussion with Mr. Krahulik about this. We had some questions about the reasons he gave for this extension. The conditions that he was referring to as being complicated, time-consuming and expensive, he made the point to me in our discussion that those conditions were not conditions of both by the Planning Board. They were conditions of the property when the LDC took over the property. For instance, there was an issue with power. He went through a lengthy description as to what it took to get the power turned back on. There was an issue with the heating system. I don't know if we were aware of it at the Planning Board meetings, but there was a single heating system that heated the whole complex. The details that Mr. Krahulik refers to in this letter were not our details or conditions. It is the conditions of the subject property.

Mr. Astorino: Thank you. Let the record show that Mr. McConnell recuses himself from the WVLDC Lot #1 Subdivision application.

Mr. Kennedy makes a motion on the WVLDC Lot #1 Subdivision, granting a 6-Month Extension on Final Approval of a proposed 10-Lot subdivision and Site Plan Approval and Special Use Permit for the construction and use of special use # 19, 43, & 57. Conditional Final Approval was granted on 11/6/13.

The 6-Month Extension becomes effective on 5/6/14.

Seconded by Ms. Little. Motion carried; 4-Ayes.

4. **Douglas Tinnirello Subdivision** – Letter from Douglas Tinnirello addressed to the Planning Board, dated 6/4/14 in regards to the Tinnirello Subdivision – requesting “**5<sup>th</sup> Re-Approval**” of Final Approval of a proposed 3-Lot Cluster subdivision, situated on tax parcels SBL # 49-1-56 & 45.42; parcels located on the southeast side of State Route 94 1000 feet southwest of Wawayanda Road, in the RU zone, of the Town of Warwick. Conditional Final Approval was granted on 6/17/09. *The Applicant has stated that due to the continued depressed economy, they are not able to generate enough income to pay for fees.* The 5<sup>th</sup> Re-Approval of Amended Final Approval for Section I becomes effective on 6/17/14, subject to the conditions of final approval granted on 6/17/09.

Mr. McConnell: I have a question about this property. I noticed the other day a For Sale sign on the property. John, what is the effect of the sale on that property on a final approval that has been granted? Does that have any effect on it at all or does it transfer to the new owners?

Mr. Bollenbach: It all depends if they are just trying to sell a portion of it without the benefit of a filed subdivision map. That could be one issue. It all depends what the negotiations they have with the perspective purchaser; to buy just the land or also the subdivision approval.

Mr. McConnell: Ok. I didn't know if we needed to make note of this before we grant this or wait and see what happens.

Mr. Bollenbach: No. It doesn't affect us.

Mr. McConnell: Ok. Thank you.

Mr. McConnell makes a motion on the Douglas Tinnirello application, granting “**5<sup>th</sup> Re-Approval**” of Final Approval for a proposed 3-Lot cluster subdivision, situated on tax parcels S 49 B 1 L 56 and L 45.42; parcels located on the southeast side of NYS Route 94 1000 feet southwest of Wawayanda Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on 6/17/09. (See attached)

The 5<sup>th</sup> Re-Approval of Final Approval becomes effective on, 6/17/14, subject to the conditions of final approval granted on, 6/17/09

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

5. **Fusco Subdivision** – Letter from Dave Higgins, Lanc & Tully Engineering addressed to the Planning Board dated 6/10/14 in regards to the Fusco Subdivision – requesting “**Re-Approval**” of Amended Final Approval for filing a 12-Lot Cluster subdivision in sections. Section I to consist of a proposed 3-Lot Cluster subdivision, situated on tax parcel SBL #18-1-31.2; parcel located on the southern side of Taylor Road 900± feet east of the intersection of Taylor Road & Jessup Road, in the RU zone, of the Town of Warwick. Conditional Amended Final Approval was granted on 7/17/13. *The Applicant has stated that they are close to meeting the conditions of Amended Final Approval for Section I and is ready to file the Overall Sectionalized Plan to the Town Clerk. The Re-Approval for Section I is needed so they could satisfactorily address the remaining conditions such as legal documents and payment of the applicable fees.* The Re-Approval of Final Approval becomes effective on 7/17/14, subject to the conditions of amended final approval granted on 7/17/13.

Mr. Kennedy makes a motion on the Fusco Subdivision application, granting “**Re-Approval**” of Amended Final Approval (Vote 5-0-0) for filing a 12-Lot Cluster subdivision in sections. Section I to consist of a proposed 3-Lot Cluster subdivision, situated on tax parcel SBL #18-1-31.2; parcel located on the southern side of Taylor Road 900± feet east of the intersection of Taylor Road & Jessup Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of amended final approval granted on 7/17/13. (See attached)

Re-Approval of Amended Final Approval for Section I becomes effective on 7/17/14.

Seconded by Ms. Little. Motion carried; 5-Ayes.

### **Correspondences:**

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

Connie Sardo: The only thing I have is that tonight I distributed to the Board HOMARC’s Revised DEIS that we received today for the Board and Professionals to review for the next Work Session which is on July 7, 2014. If any Board members have any comments, please submit them to Ted and Laura.

### **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 18, 2014 Planning Board Meeting.**

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