TOWN OF WARWICK PLANNING BOARD
August 17, 2016

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, August 17, 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 Robert and Lynda Roven & Randolph Specht

Application for Final Approval of a proposed 3-Lot Lot Line Change, situated on tax parcels S 16 B 1 L 30, 49 and 50; parcels located on the western side of Hedges Road 2,200 feet north of Mountainside Road, in the MT/CO zones, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Brian Babcock, Surveyor from Engineering Properties.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Roven & Specht 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 – pending comments
4. Architectural Review Board – pending comments
5. OC Planning Department – initial response dated 06/20/16; 07/06/16 advisory comments to make flag portion of the 16-1-49 wider
6. TW Building Department – no violations
7. A sight distance easement needs to be shown over 16-1-50; it is a separate tax lot and owners can change.
8. §137 Appendix F states for a speed limit of 30mph, a minimum sight distance of 300-ft is required. §A168-17 states that a sight distance of no less than 250-ft is required. Applicant is providing 300-ft in one direction and 225-ft in the opposite direction with proposed sight distance enhancements. Applicant to justify why adequate site distance can not be provided. - Existing driveway location, requesting sight distance waiver.

9. In no case shall the flag lot width be less than 50-ft at any point, §137-21.K(2)(a)[2]. - Requesting waiver to 15-ft.
10. Drawing S-1, Bulk requirements, lists the lot depth as 797-ft. The average width should be based on the entire lot depth (i.e. 10 intervals at 79.7-ft would be more appropriate) but calculations provided are valid for only 764-ft of the 797-ft depth
11. The depth of the strip from the roadway to the front yard line shall not be less than 200-ft nor greater than 300-ft, §137-21.K(2)(a)[2]. - Requesting waiver to approx. 1,275-ft.
12. Sheet 1 of 2, Driveway Note #3 states that all flag lot driveways shall be paved in its entirety. The proposed driveway is nearly 1,500-ft long and applicant is now requesting a waiver from this requirement. A driveway cross-section must be added to the drawing set. - Requesting a waiver for paving flag lot driveway.
13. Applicant to provide a turnaround suitable for the 46-ft long, 8-ft wide fire truck; there is enough space on the lot.
14. Applicant to provide truck turning diagram to show that a 46-ft long and 8-ft wide fire truck can traverse the driveway.
15. The Ridgeline Overlay Notes and Common Driveway Use and Maintenance Notes must be added to the plan.
16. Applicant to submit descriptions for the tongue parcel (Roven to Specht), pole of flag parcel (Roven to Specht), new tax lot 16-1-49, new tax lot 16-1-50.
17. The declaration information for the Agricultural Notes, Ridgeline Overlay Notes, Common Driveway Use and Maintenance Notes, and sight distance easements must be added to the plans.
18. Surveyor to certify that iron rods have been set at all property corners.
19. Payment of all fees.

The following comment submitted by the Conservation Board:

Robert and Lynda Roven & Randolph Specht – None submitted.

The following comment submitted by the ARB:

Robert and Lynda Roven & Randolph Specht – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The applicant provided the Planning Board with a short EAF. This project is not subject to SEQRA. It is classified as a Type 2 Action. I have prepared a Resolution for the Board's consideration.

Comment #2: Applicant to discuss project.

Brian Babcock: The application before the Board is to provide lot line changes between the Rovens & Spechts. Mr. Specht purchased a landlocked piece of property back in the 1980's. We are attempting to fix that problem by giving him access through the Roven's land. We are giving him approximately a half acre of land in which he could build a future driveway across access his parcel. It would be given in fee. It would not be an easement. By virtue of cutting off that strip of land to be added to the landlocked parcel, it creates another landlocked parcel which would have been retained by the Rovens. What we had decided to do was take that tongue parcel and add that to the front parcel which is also Mr. Specht's land. We have a lot line change where a half

acre of land would be added to the landlocked parcel. Two acres would be added to the already 3.2 acres of Mr. Specht's front parcel. We are not proposing any construction. We are demonstrating that we could get emergency vehicles up the driveway. The driveway would be no less than 20 feet at any given location.

Mr. Astorino: We discussed that at the Work Session.

Mr. Bollenbach: That is not a Right-Of Way. That is in fee.

Mr. Astorino: Yes.

Brian Babcock: Yes.

Comment #3: Conservation Board – pending comments
Comment #4: Architectural Review Board – pending comments
Comment #5: OC Planning Department – initial response dated 06/20/16; 07/06/16 advisory comments to make flag portion of the 16-1-49 wider

Brian Babcock: We had done that.

Comment #6: TW Building Department – no violations

Comment #7: A sight distance easement needs to be shown over 16-1-50; it is a separate tax lot and owners can change.

Brian Babcock: Agreed.

Comment #8: §137 Appendix F states for a speed limit of 30mph, a minimum sight distance of 300-ft is required. §A168-17 states that a sight distance of no less than 250-ft is required. Applicant is providing 300-ft in one direction and 225-ft in the opposite direction with proposed sight distance enhancements. Applicant to justify why adequate site distance cannot be provided. - Existing driveway location, requesting sight distance waiver.

Mr. Astorino: We discussed that.

Brian Babcock: It is an existing entrance. We are making it significantly better.

Mr. Astorino: I was out there. It makes sense where it is.

Comment #9: In no case shall the flag lot width be less than 50-ft at any point, §137-21.K(2)(a)[2]. - Requesting waiver to 15-ft.

Mr. Bollenbach: That should be 25 feet.

Mr. Astorino: It should be 20 feet.

Mr. Bollenbach: Should it be 25 feet? I thought you had said it would be no less than 25 feet.

Mr. Astorino: It is 20 feet.

Mr. Bollenbach: You said 20 feet. That would be for the Board's consideration.

Comment #10: Drawing S-1, Bulk requirements, lists the lot depth as 797-ft. The average width should be based on the entire lot depth (i.e. 10 intervals at 79.7-ft would be more appropriate) but calculations provided are valid for only 764-ft of the 797-ft depth

Mr. Astorino: Laura, do you want to comment on that?

Brian Babcock: We talked about it at the Work Session. We took cross-sections only to the extent that there are side yards. You theoretically can't measure a lot width unless there are two sides. We felt that was the definition that we were following the definition of zoning.

Mr. Bollenbach: We could strike Comment #10.

Mr. Astorino: Ok. We will strike Comment #10.

Comment #11: The depth of the strip from the roadway to the front yard line shall not be less than 200-ft nor greater than 300-ft, §137-21.K(2)(a)[2]. - Requesting waiver to approx. 1,275-ft.

Mr. Bollenbach: This is a pre-existing lot. We are trying to obtain access to it. The Board might want to consider granting a waiver.

Mr. McConnell: If we do that, then it would need to be contingent upon the other things that we just talked about.

Mr. Astorino: Yes. I agree.

Mr. McConnell: It can't stand on its own.

Mr. Astorino: All of these waivers have to be contingent of each other.

Comment #12: Sheet 1 of 2, Driveway Note #3 states that all flag lot driveways shall be paved in its entirety. The proposed driveway is nearly 1,500-ft long and applicant is now requesting a waiver from this requirement. A driveway cross-section must be added to the drawing set. - Requesting a waiver for paving flag lot driveway.

Mr. Astorino: This was also discussed at the Work Session. I believe it was the Board's consensus that they are going to leave it to be paved. Whoever builds at that time could discuss it at that point and give their reasons why. Honestly that is not your concern at this point because you are just trying to get from point A to point B? Is that correct?

Brian Babcock: This does not affect my client. It affects the other party that is involved in this.

Mr. Bollenbach: Let's see if we have any comment from the public hearing.

Mr. Astorino: Ok.

Comment #13: Applicant to provide a turnaround suitable for the 46-ft long, 8-ft wide fire truck; there is enough space on the lot.

Brian Babcock: Yes.

Mr. Bollenbach: Has that been done?

Brian Babcock: We have a potential vehicle turnaround up on Specht's lot.

Mr. Astorino: John, leave that as a comment.

Mr. Bollenbach: OK.

Comment #14: Applicant to provide truck turning diagram to show that a 46-ft long and 8-ft wide fire truck can traverse the driveway.

Brian Babcock: We submit that.

Comment #15: The Ridgeline Overlay Notes and Common Driveway Use and Maintenance Notes must be added to the plan.

Brian Babcock: Ok.

Comment #16: Applicant to submit descriptions for the tongue parcel (Roven to Specht), pole of flag parcel (Roven to Specht), new tax lot 16-1-49, new tax lot 16-1-50.

Brian Babcock: Yes. Will do.

Comment #17: The declaration information for the Agricultural Notes, Ridgeline Overlay Notes, Common Driveway Use and Maintenance Notes, and sight distance easements must be added to the plans.

Brian Babcock: Yes.

Comment 18: Surveyor to certify that iron rods have been set at all property corners.

Brian Babcock: Yes.

Comment #19: Payment of all fees.

Brian Babcock: 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 Roven-Specht application, please rise and state your name for the record.

John Furst: I am the attorney representing Mr. Specht. We have been working with Brian as far as the application process. I just have a couple of quick comments. Mostly everything seems to be addressed. As John had mentioned before, we would like to officially request a waiver from the Planning Board with respect to paving. We feel that it is a rural area. It is a very long driveway. If possible, we would like the issue addressed now. I think that under your regulations if this was just a driveway easement, I don't think the paving would be required. I think what is triggering the paving is that this is a flag lot and flag poles must be paved. As someone had mentioned before that this is an existing lot. All we are doing is providing access to this lot via fee simple as opposed to an easement. Based upon that, we are hoping you could grant the waiver now. If you want to have it deferred to the Building Department that would be fine as well. It would be our preference to have the Board address this issue now and grant the waiver now.

Mr. Bollenbach: Could you comment on the grade and the chance for erosion what measures would be taken?

John Furst: There are certain locations where the grading is actually flat. Brian, is that correct?

Brian Babcock: Yes. The grading is very close to the original grade.

John Furst: We could use 4 inches of 2-1/2 rip rap. We could use Item #4 on top. The road is going to be adequate. Paving the road would be very costly. By using Item #4, it would still be a solid road. It is going to be reviewed by the Building Inspector prior to any issuance of a building permit. We are only asking that the pavement requirement be waived. Given the length of the road, it is about 1800 feet long. It would be an extraordinary expense.

Mr. McConnell: I have two comments. How do you address the difference between an easement and fee simple in terms of the burden upon the landowner for paving? That maybe why in the past if it were an easement, we wouldn't require it to be paved. The people who benefit from it, it is not their property. To require it to be paved would put burden on the landowner. The second that this lot was purchased, it was the same distance from the road that it is today. To say that it is an extraordinary long driveway, you bought what you bought.

John Furst: Correct. Good point. On your second point, the easement was never defined. It is a long history of litigation. I don't want to go into all the history. The Judge basically said that Mr. Specht, you have an easement over Mr. Roven's property. This happens to be one of the longest portions to get to Mr. Specht's property in the back. This was done because the Rovens wanted the road as far as possible away from their main house. They did not want a road to cross right by their house. That probably would have been the shortest point from point A to Point B. As part of the settlement they had asked Mr. Specht to come down on this part of the property. That wound up increasing the length. Mr. Specht always had access to this parcel. It was never defined as where over the Roven's property. It just so happens as part of the settlement for the litigation because they had argued on where it should be, they mutually agreed upon this to minimize the impacts to Rovens to push it down to the most southern or easterly part of the property. That is why the road is so long.

Mr. Astorino: Do any other Board members have any comments?

Ms. Little: I just want to clarify something. Would the driveway have to be paved only if they are building something on it or as we are approving it now?

Mr. Astorino: No. That is the Board's call. We could ask our Engineer for her opinion on this.

Laura Barca: The slope is not a significant slope. I believe is it significantly less than 10% in all locations. By widening, it gives additional space for there to be a roadside swale to provide maintenance to the driveway.

Mr. Astorino: The only option is if we waived the paving would be to supply the specs for what would be placed there now.

Laura Barca: In Comment #12 it does state that a driveway cross-section must be added to the drawing set.

Mr. Astorino: ok.

Mr. Bollenbach: Does Roven have any opposition as to it being non-paved?

Brian Babcock: I don't believe they care one way or another. They are giving it to them in fee simple.

John Furst: It would also minimize stormwater as well.

Mr. Bollenbach: The neighbor wouldn't be impacted.

Brian Babcock: My only issue would be is if we get into the issue of whether this would be demonstrating that this driveway could be built around my providing details.

Mr. Bollenbach: It would be just the cross-section.

Brian Babcock: It would be more costly for the Rovens. I don't want to do that.

Laura Barca: No. As far as I would be concerned, you have already shown the profile that shows me the grade of the driveway. I would just ask that there would be a cross-section.

Brian Babcock: To show the materials that you are requiring for a driveway.

Laura Barca: Yes.

John Furst: It would show what you require if it is paved or Item #4.

Laura Barca: Yes. It would say what is going there whether it is pavement or non-pavement.

John Furst: I think from my client's perspective, it would make the lot a lot more marketable to sell. He does not plan to build on it. He plans on selling it. If a potential buyer doesn't have to worry about paving it now as opposed to going to the Building Department later. Maybe it will. Maybe it won't. It would make it a lot easier.

Mr. Bollenbach: What is the common shared portion of the driveway? We require that the common driveways be paved also.

Mr. McConnell: Yes.

Mr. Bollenbach: What is that common portion?

Ms. Little: How much do they share?

John Furst: The shared portion is going to be paved. It is about 200 feet. That is understandable.

Laura Barca: There would be 2 driveway cross-sections. One for the common driveway that is paved and one for the single driveway that is not paved.

Ms. Little: Could you provide some history on the Code as far as flag lots and why it was proposed that driveways had to be paved on the whole section of the lot?

Mr. Bollenbach: The idea of the rationale behind it was so it does not adversely impact on the adjoining neighbor. In this case, it would be the Rovens. Typically non-paved driveways have dust. It is sort of a nuisance. In this particular case the Rovens residence is on the opposite side of the property. They had no objection to it being non-paved. But there is a requirement for common driveways to be paved. There will be a Use and Maintenance agreement for that portion. If it is paved, it would make the maintenance more routine, easier and to have safe adequate access.

Ms. Little: With all due respect, I live uphill of a very long road that is across the street from my house. I get dust on my house. I think that the Code was devised for a purpose. Dennis had stated it clearly that when the land was purchased it was landlocked. They bought it as is. I think if we make an exception to this Code provision, we are going to have every other person with a flag lot with a long access to it coming and asking for the same exact thing.

Mr. Astorino: That is what we are here for. It is done on a case-by-case basis.

Mr. Showalter: What if you paved the common part now then part of the deal of developing the building lot they would have to pave it?

Mr. Astorino: That is essentially what we have right now. We could grant a waiver. That is what we are discussing. If you don't want to grant a waiver, you could hold it off until they get a building permit. They could discuss it at that time. The attorney for them asked if we could discuss it now on if the Board is in favor one way or another. Now is the time to say it.

Ms. Little: I am not in favor of waiving the paving.

Brian Babcock: In response what you were saying about that, absolutely for a flag lot it is required to be paved in its entirety. This particular project, it was never set out or designed a flag lot. The flag lot actually requires the building line to be no less than 200 feet and no greater than 600 feet. We have 2200 feet by nature of the lot.

John Furst: It is a unique situation. Given the history of the litigation and given the fact that we have an existing landlocked parcel, he was granted an access easement over the Rovens. It was never defined as to where. It is part of the settlement. We defined where it was needed to go. They chose to do a fee simple because it was an easier break between the two. This is a unique situation where I wouldn't be so concerned as far as future precedent.

Mr. McConnell: I really don't want to hear the history of the litigation. For my purposes, it is not relevant.

John Furst: Correct.

Mr. McConnell: When this lot was purchased there was an easement given for accessing the lot.

John Furst: Correct.

Mr. McConnell: It was undefined as to where it was.

Brian Babcock: It was litigation that there would be access to the lots.

Mr. McConnell: Was that easement ever taken advantage of? Did Mr. Specht ever access the lot?

John Furst: I think he had attempted to. The Rovens did not like the way he tried to access it.

Mr. McConnell: Then we don't need to go there.

Brian Babcock: The lot had actually been accessed in that location.

Mr. Astorino: There is an existing trail or road.

Mr. McConnell: It goes back to what I had said. It was bought with knowing about this.

Mr. Astorino: It is a long road. I went out to the site. I walked it. I know exactly where it was. To me, the Code reads the way it reads. It doesn't make sense to put 12 feet of pavement for 1800 feet. Probably not. I am looking at this as a case-by-case basis.

Mr. McConnell: We are not talking about it being a little bit longer. It is quite a bit longer. That is not our real concern.

Mr. Astorino: But it also gives us the right to make a decision. That is why we are discussing this. You are in the middle of the woods. Is there a home around there?

Brian Babcock: No.

Mr. McConnell: There would never be a home closer?

Brian Babcock: My only thing in all of this is that we did not set out to create a flag lot that met Code. This happens to fall under the definition of a flag lot because of the nature of the flag.

Mr. Astorino: That was my opinion. The Board has to make a decision on which way you would want to go. Chris, I know your opinion. Dennis, you are in favor of the asphalt. Is that correct?

Mr. McConnell: No.

Mr. Astorino: Dennis, are you saying no?

Mr. McConnell: It's no. I'm not happy about it, but it is no.

Mr. MacDonald: East of this driveway, how close are the houses?

Brian Babcock: It is about a good 350 feet. They are up around the corner.

Mr. Astorino: Do we have a consensus from the Board on waiving the paving of the driveway?

Mr. McConnell: As long as we are paving the common portion of the driveway.

Mr. Kennedy: I agree with that.

Mr. Astorino: I agree with that.

Mr. Showalter: I want to compromise. Have them pave the common part and give them a waiver on the rest.

Ms. Little: I say stick to the Code.

Mr. Astorino: Ok. Is there anyone else wishing to address the Roven-Specht application? Let the record show no further public comment.

Mr. Showalter makes a motion for the 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: Roven & Specht Re-Subdivision

Whereas, the Town of Warwick Planning Board is in receipt of a Subdivision application by Robert & Lynda Roven for a ± 105 acre parcel of land located at 78 Hedges Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 4-28-16 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 not within an agricultural district and, therefore, the requirements of 617.6(a)(6) do not apply , and

Whereas, after examining the EAF, the Planning Board has determined that there are 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.

Mr. Astorino: Now we need to do motions on the waivers.

Mr. Showalter makes a motion to waive the existing driveway location sight distance.

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

Mr. Showalter makes a motion to waive the flag lot width to be 20 feet.

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

Mr. Showalter makes a motion to waive the depth of strip from the roadway to the front yard line to be approximately 1,275 feet.

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

Mr. McConnell makes a motion to waive the paving of the flag lot driveway. But common portion of driveway to be paved.

Seconded by Mr. Showalter. Motion carried; 4-Ayes and 1-Nay (Ms. Little)

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

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

Mr. Showalter makes a motion on the Robert and Lynda Roven & Randolph Specht application granting Final Approval of a proposed 3-Lot Lot Line Change, situated on tax parcels S 16 B 1 L 30, 49, and 50; parcels located on the western side of Hedges Road 2,200 feet north of Mountainside Road, in the MT/CO zones, of the Town of Warwick, County of Orange, State of New York**.** Approval is granted subject to the following conditions:

1. A sight distance easement needs to be shown over 16-1-50; it is a separate tax lot and owners can change.
2. §137 Appendix F states for a speed limit of 30mph, a minimum sight distance of 300-ft is required. §A168-17 states that a sight distance of no less than 250-ft is required. Applicant is providing 300-ft in one direction and 225-ft in the opposite direction with proposed sight distance enhancements. Applicant to justify why adequate site distance can not be provided. - Existing driveway location, requesting sight distance waiver. (Waiver Granted)
3. In no case shall the flag lot width be less than 50-ft at any point, §137-21.K(2)(a)[2]. - Requesting waiver to 20-ft. (Waiver Granted)

4. The depth of the strip from the roadway to the front yard line shall not be less than 200-ft nor greater than 300-ft, §137-21.K(2)(a)[2]. - Requesting waiver to approx. 1,275-ft. (Waiver Granted)
5. Sheet 1 of 2, Driveway Note #3 states that all flag lot driveways shall be paved in its entirety. The proposed driveway is nearly 1,500-ft long and applicant is now requesting a waiver from this requirement. Driveway cross-sections must be added to the drawing set. - Requesting a waiver for paving flag lot driveway. But common portion of driveway to be paved. (Waiver Granted)
6. Applicant to provide a turnaround suitable for the 46-ft long, 8-ft wide fire truck; there is enough space on the lot.
7. Applicant to provide truck turning diagram to show that a 46-ft long and 8-ft wide fire truck can traverse the driveway.
8. The Ridgeline Overlay Notes and Common Driveway Use and Maintenance Notes must be added to the plan.
9. Applicant to submit descriptions for the tongue parcel (Roven to Specht), pole of flag parcel (Roven to Specht), new tax lot 16-1-49, new tax lot 16-1-50.
10. The declaration information for the Agricultural Notes, Ridgeline Overlay Notes, Common Driveway Use and Maintenance Notes, and sight distance easements must be added to the plans.
11. Surveyor to certify that iron rods have been set at all property corners.
12. Payment of all fees.

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

Brian Babcock: Thank you.

Review of Submitted Maps:

Connolly Solar Project

Application for Site Plan Approval and Special Use Permit for the construction and use of a large-scale solar energy installation and a Sketch Plat Review Application for a proposed 3-Lot subdivision, situated on tax parcel S 7 B 2 L 76.27; project located on the eastern side of Union Corners Road 1,805 feet north of Spanktown Road, in the RU zone, of the Town of Warwick.

Representing the applicant: Scott Kerner from Green Street Solar Power. Dave Kane from Green Street Solar Power. Dave Getz from Lehman & Getz Engineering. John McGloin, PLS.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – pending comments
4. Architectural Review Board – pending comments
5. OC Planning Department – 08/11/16 Advisory Comments: viewshed analysis, vegetation, removal from the Ag District, OCPD has more solar info
6. TW Building Department – no violations, but have an old house in disrepair
7. ZBA variances – some are required
8. The solar panels appear to be within the 200-ft setback at all locations except for the easterly side adjacent to the Mira Bella property; applicant to clarify.
9. Some of the bulk requirements are determined by §164-40.N (w) and others are determined by §164-46.J(127). There appears to be conflicts for rear setback, one side setback and both side setbacks.
10. The residential district bulk requirement of 200-ft is missing from the bulk table shown on Sheet 1.
11. The proposed height of the panels should be included in the bulk table.
12. Applicant to clarify the variances being requested in the bulk table on Sheet 1.
13. It is noted that Lot 3 of this subdivision does not contain road frontage; however, access is gained via the proposed common driveway.
14. Applicant to clarify if it is necessary to locate a well and septic system (including soil tests) on each lot to demonstrate that each lot is a buildable lot.
15. Planning Board to discuss a site inspection; consider obtaining wetland delineation prior to inspection so can better understand locations of the primary and secondary conservation areas.
16. The project is proposing 21,328 panels; applicant to convert number into acres of solar panels and show it on the plan.
17. There appears to be an existing building in proposed lot 2; applicant to clarify if building will be removed.
18. Applicant to clarify how electric produced on this site gets delivered to property owners who wish to take advantage of this proposed Community Distributed Generation Program.
19. The application states that there are no poured footings, that the posts are rammed into the ground with a hydraulic hammer. Applicant to clarify what tests are completed in advance to locate potential rock or bedrock and if panels are relocated if (significant) rock is encountered.
20. Property Owners within 300-ft, including tax ID number, must be added to the plans.

21. Wetland delineation information on property and within 300-ft of property must be added to the plan.
22. Applicant to clarify if USACE NWP#14 will be required (if disturbing 0.1 acres or more.
23. The wetlands disturbance includes excavation, fill, and a possible drainage structure to allow for vehicles to access the rear of the property. If the drainage structure means a culvert and there is the potential for aquatic life passage (doesn't have to be fish; can be turtles, etc.) then the structure has to be designed to provide passage.
24. A Landscape Plan must be added to the plan set, including a minimum clear space between edges of the panels. At least 15-ft is recommended to maintain vegetation so that the soil does not become barren.
25. A Visual Assessment including Lines of Sight Profiles must be provided.
26. Show the location, design, and construction materials for all existing and proposed walkways, bicycle paths and racks, benches, ramps, outdoor storage or display areas, and retaining and/or landscaping walls and fences.
27. Show driveway location, roadway speed limit, and sight distance. §137 Appendix F(2).
28. Location of existing and proposed buildings, indicating conformance to zoning district requirements.
29. Location, proposed use, height, and setback measurements of all existing and proposed buildings location on the project site.
30. The location of fire and emergency access ways and zones, including the location of fire hydrants or of the nearest alternative water supply for fire emergencies.
31. The town's overlay districts must be added to the plan in tabular format, including the biodiversity overlay.
32. Architectural drawings, including floor plans, and plans for exterior elevations at a scale of ¼-inch = 1-ft showing the structure's mass and architectural features, including the type and color of materials used.
33. Provide Square Rule §137-21.K(1) – Shape of the Lot.
34. Provide Buildable Area §137-21.A – Lots to be buildable.
35. Soils suitable for septic systems §137 Appendix A – Table of Soil Groups.
36. Applicant to provide service letters for utility, water, sewer, highway, police, ambulance, fire, and school.
37. The limits of disturbance must be calculated and shown on the plan. The area of disturbance must be added in a note on the plan.
38. Stormwater Pollution Prevention Plan needs to be submitted for review. This SWPPP must address the concentration of stormwater runoff from the solar panels.
39. The hours of construction and operation must be shown on the plan.
40. In the Long EAF, Page 9 of 13, E.1.b – the number for meadows and grasslands after project completion is slightly incorrect.
41. Operations and maintenance of the system should be provided, including any cleaning or other products applied to the panels.
42. Noise generation is N/A in applicant checklist and Long EAF. There is a potential for significant construction noise impacts due to the numerous posts that will be driven. Applicant to clarify construction noise impacts.
43. Site security measures should be described. Location, height, and detail (including materials of construction) for perimeter fencing, if applicable.
44. Site utilities should be provided since there is a potential for significant trenching of underground cabling that can have both temporary and permanent impacts to the site and environmental resources.
45. Ancillary structures to support the installation should be included in the site plan.
46. Details for the connection to the electrical grid should be provided.
47. Site traffic flow should be provided.

48. 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."
49. Place the 911 address on Sheet 1 in tabular format.
50. Money in lieu of parkland, in accordance with §75-3.A(2)[3], for two lots.
51. The declaration information for the Agricultural Notes, Ridgeline Overlay Notes, and Private Road and Maintenance for the common driveway must be added to the plans.
52. Surveyor to sign and seal final plans.
53. Surveyor to certify that iron rods have been set at all property corners.
54. Applicant to provide Decommissioning Report and/or Bond, as required by the Planning Board.
55. Payment of all fees.

The following comment submitted by the Conservation Board:

Connolly Solar Project – None submitted.

The following comment submitted by the ARB:

Connolly Solar Project – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The applicant has submitted a long EAF to the Planning Board. In reviewing it, it appears to be a Type 1 Action. There are other Involved Agencies. The best we could do tonight under SEQRA is declare ourselves Intent To Be Lead Agency. We would need to circulate to the other 3 agencies that involved which are the ZBA, OCDPW, & NYSERDA. I have prepared a draft Resolution for the Board's consideration.

Mr. Kennedy makes a motion for Intent To Be Lead Agency.

Seconded by Ms. Little. The following Resolution was carried 5-Ayes.

Environmental Quality Review (SEQR)

Resolution Establishing Intent to be Lead Agency

Type 1 Action

Name of Action: GSPP Development, LLC Solar Installation

Whereas, the Town of Warwick Planning Board is in receipt of a Subdivision, Site Plan/Special Use application by GSPP Development, LLC for a ± 84.25 acre parcel of land located at 764 Union Corners Road, Town of Warwick, Orange County, New York; and

Whereas, an Environmental Assessment Form (EAF) dated 7-27-16 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 will involve a physical alteration of 24.7 acres and is a non-residential project; 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 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 Zoning Board of Appeals, Orange County Department of Public Works, and New York State Energy Research and Development Authority.

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.

Scott Kerner: We are proposing a solar project located on approximately 84 acres. It will be owned, managed, maintained and operated by Green Street Solar Power. We are located from Bronx, New York. The key piece to this transaction is that it is going to produce 9 million kilowatt hours in which it could offset about 900 residential homes. It could be a little more or a little less. Part of the project is giving first right of refusal of residents within the Town of Warwick with preferred pricing as well as job creation both temporarily and permanently through the build of the site as well as maintaining it long term. I think that is the major pieces that we wanted to touch on for all of you.

Comment #3: Conservation Board – pending comments
Comment #4: Architectural Review Board – pending comments
Comment #5: OC Planning Department – 08/11/16 Advisory Comments: viewshed analysis, vegetation, removal from the Ag District, OCPD has more solar info

Mr. Astorino: This application just started. We will get more information as this application moves along.

Comment #6: TW Building Department – no violations, but have an old house in disrepair

Dave Getz: There are 2 structures. We propose them to be removed.

Mr. Astorino: You will show that on the plans.

Dave Getz: Yes.

Comment #7: ZBA variances – some are required

Dave Getz: Yes.

Comment #8: The solar panels appear to be within the 200-ft setback at all locations except for the easterly side adjacent to the Mira Bella property; applicant to clarify.

Dave Getz: We discussed this somewhat at the Work Session. We are not showing 200-foot setback to the interior property line. That is one of the bulk requirements that we would be seeking relief from the ZBA. As far as the perimeter of the property, we have a 200-foot setback or more at all locations except along this easterly side which includes Mira Bella and a small part of this other lot which is Bollenbach Farms. That is agricultural lands.

Scott Kerner: Due to the shape, we wanted to make sure closer to the road we kept 200 feet and we kept 75 feet on the outside closer to the road agricultural farms.

Mr. Astorino: You will be going for a variance for that.

Scott Kerner: Yes.

Comment #9: Some of the bulk requirements are determined by §164-40.N (w) and others are determined by §164-46.J(127). There appears to be conflicts for rear setback, one side setback and both side setbacks.

Dave Getz: I'm not sure on that. I believe in that case we would have to go by the more stricter.

Laura Barca: I believe so. You will be going to the ZBA on that.

Dave Getz: Yes.

Comment #10: The residential district bulk requirement of 200-ft is missing from the bulk table shown on Sheet 1.

Dave Getz: Will do.

Comment #11: The proposed height of the panels should be included in the bulk table.

Dave Getz: We will. Dave, what do you estimate that to be?

Dave Kane: It is going to start around 2 feet off the ground and go up to 10 feet.

Comment #12: Applicant to clarify the variances being requested in the bulk table on Sheet 1.

Dave Getz: Ok.

Comment #13: It is noted that Lot 3 of this subdivision does not contain road frontage; however, access is gained via the proposed common driveway.

Dave Getz: Right. We would need 280a variance. Is that correct?

Mr. Astorino: Is that a private road?

Dave Getz: Yes.

Mr. Astorino: Does a common driveway need a 280a variance?

Mr. Bollenbach: Yes. But, if you are doing a private road that wouldn't be a 280a. You could install a road.

Mr. Astorino: A common driveway would require that. That is what I am asking.

Mr. Bollenbach: Yes.

Dave Getz: Two of the lots would have frontage on Union Corners Road or Jessup Road.

Mr. Bollenbach: Where is the frontage for the 3rd lot? That is the thing. Also note that you cannot have a flag lot off a County Road.

Dave Getz: Looking at the map, this is proposed with physical access by a common driveway and no frontage.

Mr. Bollenbach: That is the problem. Having no road frontage you would need a 280a for that.

Dave Getz: On a County Road, you would have to go with a private road. Is that correct?

Mr. Bollenbach: Yes or you could provide the frontage. Make that lot wider. Give it a wider access up front. Or you could show the buildability closer to the County Road. You have to show buildability for residential use because residential is a permitted use in the zone.

Dave Getz: Yes.

Mr. Bollenbach: You might want to reconsider the configuration of it. You don't have anything up at the upper front corner of the property. You probably could fit a 200 x 200 building envelop right up on Union Corners Road then have a narrower sliver accessing the rear of the property. You could be a bit creative with that so you wouldn't have to build a private road.

Scott Kerner: The problem is when we constructed and went about engineering this plan set, we stayed away from all the higher grades as well as the wetlands.

Mr. Astorino: That would have to be a decision that you would have to make.

Mr. Bollenbach: You have to look at that.

Laura Barca: Private road specs, it would have to be paved.

Comment #14: Applicant to clarify if it is necessary to locate a well and septic system (including soil tests) on each lot to demonstrate that each lot is a buildable lot.

Mr. Bollenbach: That is required.

Dave Getz: Yes.

Comment #15: Planning Board to discuss a site inspection; consider obtaining wetland delineation prior to inspection so can better understand locations of the primary and secondary conservation areas.

Dave Getz: The wetland consultant has flagged the wetlands.

Mr. Astorino: We have something to go by when we do the site visit.

Dave Getz: Yes.

John McGloin: We have a sketch. It is final.

Mr. Astorino: We will get through these comments first. Then we will discuss scheduling a site visit.

Comment #16: The project is proposing 21,328 panels; applicant to convert number into acres of solar panels and show it on the plan.

Dave Getz: Will do. It is around 10 acres of solar panels.

Comment #17: There appears to be an existing building in proposed lot 2; applicant to clarify if building will be removed.

Dave Getz: It will be removed.

Comment #18: Applicant to clarify how electric produced on this site gets delivered to property owners who wish to take advantage of this proposed Community Distributed Generation Program.

Scott Kerner: We will give a complete outline of that.

Comment #19: The application states that there are no poured footings, that the posts are rammed into the ground with a hydraulic hammer. Applicant to clarify what tests are completed in advance to locate potential rock or bedrock and if panels are relocated if (significant) rock is encountered.

Scott Kerner: A geotechnical study will be done prior to moving forward. If there is rock or bedrock, we would ballast the system and not penetrate at all.

Dave Getz: Am I right in saying that pretty much no matter what conditions you find, you know how to fix it. Is that correct?

Scott Kerner: We have a solution. If we have bedrock, we will ballast using cinder blocks.

Dave Getz: So, you don't propose to excavate or pour concrete anything significant in terms of ground disturbance.

Scott Kerner: No.

Comment #20: Property Owners within 300-ft, including tax ID number, must be added to the plans.

Dave Getz: Yes. Will do.

Comment #21: Wetland delineation information on property and within 300-ft of property must be added to the plan.

Dave Getz: Ok.

Comment #22: Applicant to clarify if USACE NWP#14 will be required (if disturbing 0.1 acres or more.

Dave Getz: I am not familiar with NWP #14.

Laura Barca: I think it is utilities.

Dave Getz: We will look into that. We will clarify that.

Comment #23: The wetlands disturbance includes excavation, fill, and a possible drainage structure to allow for vehicles to access the rear of the property. If the drainage structure means a culvert and there is the potential for aquatic life passage (doesn't have to be fish; can be turtles, etc.) then the structure has to be designed to provide passage.

Dave Getz: Ok. Bob Torgeson is our Wetland Specialist.

Laura Barca: Ok.

Comment #24: A Landscape Plan must be added to the plan set, including a minimum clear space between edges of the panels. At least 15-ft is recommended to maintain vegetation so that the soil does not become barren.

Dave Getz: Ok.

Comment #25: A Visual Assessment including Lines of Sight Profiles must be provided.

Dave Kane: We have a renderer who is working on the Lines of Sight Profiles.

Comment #26: Show the location, design, and construction materials for all existing and proposed walkways, bicycle paths and racks, benches, ramps, outdoor storage or display areas, and retaining and/or landscaping walls and fences.

Mr. Astorino: Laura, could you please explain?

Laura Barca: Most of those are not needed. That is the way the comment is written. I didn't dare leave anything out.

Mr. Astorino: We will modify that comment as we go along with this project.

Dave Getz: Regarding the fences, the entire perimeter will be fenced. Is that correct?

Scott Kerner: It is required.

Dave Getz: As far as the structures that will be built?

Scott Kerner: There would only be one structure. It would be up towards the front road area. That would hold the transformer for Orange & Rockland.

Mr. Showalter: Regarding the fences, there is nothing in the notes that talks about that in detail. Does it have to be a green fence or black fence?

Laura Barca: Yes. That is common.

Mr. Showalter: Ok.

Comment #27: Show driveway location, roadway speed limit, and sight distance. §137 Appendix F(2).

Dave Getz: Will do.

Comment #28: Location of existing and proposed buildings, indicating conformance to zoning district requirements.

Dave Getz: Ok.

Comment #29: Location, proposed use, height, and setback measurements of all existing and proposed buildings location on the project site.

Dave Getz: Ok.

Comment #30: The location of fire and emergency access ways and zones, including the location of fire hydrants or of the nearest alternative water supply for fire emergencies.

Laura Barca: Not that they are going to go on fire, but if you have to put in a private road, you will have to do that.

Mr. Astorino: You would also have to send letters to all of the emergency services.

Comment #31: The town's overlay districts must be added to the plan in tabular format, including the biodiversity overlay.

Dave Getz: Ok.

Comment #32: Architectural drawings, including floor plans, and plans for exterior elevations at a scale of ¼-inch = 1-ft showing the structure's mass and architectural features, including the type and color of materials used.

Dave Getz: Does that apply to the transformers?

Scott Kerner: It would be cased. What color could we do?

Mr. Bollenbach: They would have to be earth tone colors.

Comment #33: Provide Square Rule §137-21.K(1) – Shape of the Lot.

Dave Getz: Yes.

Comment #34: Provide Buildable Area §137-21.A – Lots to be buildable.

Dave Getz: Ok.

Comment #35: Soils suitable for septic systems §137 Appendix A – Table of Soil Groups.

Dave Getz: Ok. You want to see the soil tests. Is that correct?

Laura Barca: Yes.

Comment #36: Applicant to provide service letters for utility, water, sewer, highway, police, ambulance, fire, and school.

Dave Getz: Ok.

Comment #37: The limits of disturbance must be calculated and shown on the plan. The area of disturbance must be added in a note on the plan.

Dave Getz: Ok.

Comment #38: Stormwater Pollution Prevention Plan needs to be submitted for review. This SWPPP must address the concentration of stormwater runoff from the solar panels.

Dave Getz: Ok.

Comment #39: The hours of construction and operation must be shown on the plan.

Dave Getz: Yes. The solar is going to operate 24 hours a day.

Mr. Astorino: We are talking about the construction of it.

Dave Getz: Ok.

Mr. McConnell: How would it be operating 24 hours a day? It is solar.

Scott Kerner: It is going to operate during peak hours. It would still be on. But it wouldn't be producing energy on the off times.

Comment #40: In the Long EAF, Page 9 of 13, E.1.b – the number for meadows and grasslands after project completion is slightly incorrect.

Dave Getz: We will address that.

Comment #41: Operations and maintenance of the system should be provided, including any cleaning or other products applied to the panels.

Dave Kane: We will have contractors that will be inspecting and cleaning the panels.

Mr. Astorino: We would need to know what they would be using.

Scott Kerner: The reason it is going to be 10 feet off the ground, we would need to mow the lawn and keep it well kept.

Mr. Astorino: We understand that. But if you are going to have a crew come in to maintain them, what materials would you be using? Provide what you will be using.

Dave Getz: Do you clean the panels?

Dave Kane: No. The rain takes care of that.

Mr. Astorino: So, you do not clean the face of the panels.

Dave Kane: No.

Mr. Astorino: You will need to provide to us on what you do and don't do.

Dave Kane: Ok.

Comment #42: Noise generation is N/A in applicant checklist and Long EAF. There is a potential for significant construction noise impacts due to the numerous posts that will be driven. Applicant to clarify construction noise impacts.

Dave Getz: Ok.

Comment #43: Site security measures should be described. Location, height, and detail (including materials of construction) for perimeter fencing, if applicable.

Scott Kerner: We will take care of that.

Comment #44: Site utilities should be provided since there is a potential for significant trenching of underground cabling that can have both temporary and permanent impacts to the site and environmental resources.

Dave Getz: Will do.

Comment #45: Ancillary structures to support the installation should be included in the site plan.

Laura Barca: That maybe that enclosed transformer.

Mr. Astorino: Would there be another place to house mowers and a workshop?

Scott Kerner: That would be brought in.

Mr. Astorino: Ok.

Comment #46: Details for the connection to the electrical grid should be provided.

Scott Kerner: Will do.

Comment #47: Site traffic flow should be provided.

Dave Getz: Ok.

Comment #48: 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."

Dave Getz: Ok.

Comment #49: Place the 911 address on Sheet 1 in tabular format.

Dave Getz: Ok.

Laura Barca: Each lot would need a 911 address.

Dave Getz: Ok.

Comment #50: Money in lieu of parkland, in accordance with §75-3.A(2)[3], for two lots.

Dave Getz: Ok.

Comment #51: The declaration information for the Agricultural Notes, Ridgeline Overlay Notes, and Private Road and Maintenance for the common driveway must be added to the plans.

Dave Getz: Yes.

Comment #52: Surveyor to sign and seal final plans.

John McGloin: Yes.

Comment #53: Surveyor to certify that iron rods have been set at all property corners.

John McGloin: Will do.

Comment #54: Applicant to provide Decommissioning Report and/or Bond, as required by the Planning Board.

Scott Kerner: We just started the research on that. We researched the Bond. We also researched reserved fund for Decommissioning. We will have a full plan set for you regarding this topic.

Mr. Astorino: Ok.

Comment #55: Payment of all fees.

Dave Getz: Ok.

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

Mr. McConnell: Do these panels burn? Are they capable of igniting?

Scott Kerner: That is an interesting question. Yes. They could burn.

Mr. McConnell: We would need to know what it would take to put them out.

Mr. Astorino: That is why they are going to send out letters to the emergency services.

Mr. McConnell: How many permanent jobs do you expect?

Scott Kerner: Probably about 5 permanent jobs.

Mr. McConnell: What are those 5 permanent jobs going to do?

Scott Kerner: They are to up keep the property. Need people to maintain the property and watch the property. There will be security. There will be a monitoring system working in an office.

Mr. McConnell: So, there will be an office there. Is that correct?

Scott Kerner: No. It won't be there. They would work either out of an office up here or out of our central office in the Bronx.

Mr. McConnell: The 5 permanent jobs are not necessarily local.

Scott Kerner: The Bronx is not local to you. No. Probably 3 of them would be local.

Mr. McConnell: Ok.

Scott Kerner: On the temporary side of it, it would probably be approximately 80 jobs for 6 to 9 months.

Mr. McConnell: Ok.

Ms. Little: The reflectivity the light that is going to bounce off of this, is there any kind of ruling? We do have a local municipal airport.

Mr. Astorino: Do you mean like the FAA?

Ms. Little: Yes.

Laura Barca: I'll check on that.

Mr. Bollenbach: I just have one comment. Regarding Comment #8 the setbacks, Dave had mentioned the proximity to Bollenbach Farms that is under a Conservation Easement. It is wooded agricultural land. Farmstead complexes are not proposed within that area. I have no opinion one way or the other.

Mr. Astorino: Ok.

John MacDonald: The solar panels are going to be within the setbacks. Would that have killed the project if it was brought to code?

Scott Kerner: The 75-foot setback from the exterior there would have not. If we had the 200-foot setbacks in the interior, it potentially could. The interior shrinks down a large portion of what is viable versus what is not because everything has to be 200 feet.

Dave Kane: The 200-foot setback makes this lot tough to make viable.

Mr. Astorino: That would be an argument that will be brought to the ZBA. When would the Board like to schedule a site visit?

Dave Getz: Addition to the site visit, our next step would be the ZBA.

The Planning Board and Professionals discussed scheduling a site visit. A site visit has been scheduled for Saturday, September 10, 2016 @ 9:00 a.m. They will meet at the site.

Dave Getz: Thank you.

Scott Kerner: Thank you.

Other Considerations:

1. Planning Board Minutes of 7/20/16 for PB Approval.

   Mr. McConnell makes a motion to Approve the Planning Board Minutes of 7/20/16.

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

2. Planning Board to discuss cancelling 8/29/16 W.S. & 9/7/16 PB Meeting.

   Mr. McConnell makes a motion on cancelling the 8/29/16 W.S. & 9/7/17 PB Meeting.

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

3. Planning Board to send a recommendation to the Town Board for extending the subdivision extensions past January 1, 2017.

   Mr. Astorino: We had discussed that. If we only go for a year, it would only give 6-months. I think we should do 2 years like we had done the last time. If the Board is ok with that, we would get that memo to the Town Board. Do we have a consensus?

   Mr. McConnell: Yes.

   Mr. Kennedy: Yes.

   Mr. Showalter: Yes.

   Mr. Astorino: Ok. We have a consensus from the Board to do a 2-year extension. We will send that memo to the Town Board.

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 August 17, 2016 Planning Board Meeting.

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