

TOWN OF WARWICK PLANNING BOARD

September 18, 2013

Members present: Chairman, Benjamin Astorino  
Roger Showalter, Vice-Chairman  
Dennis McConnell, Beau Kennedy,  
Paul Ruskiewicz, Christine Little, 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, September 18, 2013 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 start our agenda this evening, I would like to congratulate our Board Member, Mr. Paul Ruskiewicz on his Primary victory. He is our Republican Candidate for soon to be County Legislature for District 3. Congratulations Paul.

Mr. Ruskiewicz: Thank you.

Connie Sardo: Good job.

**Review of Submitted Maps:**

***Dennis & Virginia Guzzo***

Application for Site Plan Approval for the construction and use of a proposed bedroom addition to an existing single-family residence located within "A Designated Area" of Greenwood Lake, situated on tax parcel S 75 B 1 L 28.1; project located on the southern side of Lake Shore Road 1000± feet south of Jersey Avenue (106 Lake Shore Road), in the SM zone, of the Town of Warwick.

Representing the applicant: James Diana, LAN Engineering. Dennis Guzzo, Applicant.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments – pending
4. Architectural Review Board comments – pending
5. Greenwood Lake Commission Comments – pending submittal
6. OCPD: pending submittal
7. A dye test will have to be conducted by a licensed professional and witnessed the by Town of Warwick or proof that the septic has been pumped within three years must be submitted to the Building Department.
8. A site inspection may be necessary to review the existing site for stormwater concerns and building height.

9. Applicant to add a note to the plan stating that the home will remain with three bedrooms in it.
10. The planning board has the option to waive the requirement for contours on the site plan; property is level.
11. The information on the neighbors within 500-ft is not shown on the plan (e.g., address and section-block-lot).
12. Applicant to provide photographs toward the property and away from the property.
13. A table showing the Town's five overlay district must be added to the drawings.
14. A surveyor will need to sign/seal the survey prepared for this property.
15. The locations of the wells (if any – private water system) and septic systems on this property and within 200-ft must be shown.
16. Sheet 1 shows a retaining wall northeast of the proposed addition; Applicant to clarify who owns this wall.
17. This property is an existing small lot and therefore SM zoning and §164-45.1 apply; the following variances are required:
  - a. Minimum lot area: no change from survey  
Req'd: 0.5 acre (SM zone), provided: 0.18 acre
  - b. Lot depth: no change from survey  
Req'd: 100' (SM zone), prop: 72' & 40'
  - c. Front Yard:  
Req'd: 30-ft, provided: 8-ft (existing 3-ft)
  - d. Rear Yard:  
Req'd: 30-ft, provided: 5-ft
  - e. Lot Coverage:  
Maximum: 30%, existing: 37% proposed: 41%
18. Erosion and sediment control measures must be shown to prevent sediment from entering Greenwood Lake.
19. Provide a map note stating that the proposed construction or use shall not begin until the maps are signed and the Planning Board chairman and Building Department permits have been obtained.
20. Surveyor to certify that iron rods have been set at all property corners.
21. Applicant to clarify machinery involved with construction; Planning Board to determine if a private road bond is necessary.
22. Payment of all fees.

The following comment submitted by the Conservation Board:

Dennis & Virginia Guzzo – None submitted.

The following comment submitted by the ARB:

Dennis & Virginia Guzzo – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. McConnell: This SEQR comment has been prepared by Mr. Ted Fink, dated 9/18/13: *“The Guzzo application is an expansion of a single family residence on an approved lot - therefore it meets the threshold for a Type 2 Action meaning that SEQR does not apply. The draft Resolution prepared by the Town Planner classifies the Guzzo home addition as a Type 2 Action and recites the initial SEQR steps that must be taken”*.

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Mr. Showalter makes a motion for the Type 2 Action. Seconded by Mr. Mr.  
McConnell. The following Resolution was carried 5-Ayes.

617.6  
State Environmental Quality Review (SEQR)

**Resolution**

Type 2 Action

**Name of Action:**            Guzzo Single-Family Home Addition

**Whereas**, the Town of Warwick Planning Board is in receipt of a Site Plan application by Dennis Guzzo for a ± 0.18 acre parcel of land located at 106 Lake Shore Road, Town of Warwick, Orange County, New York, and

**Whereas**, an Environmental Assessment Form (EAF) dated 08/28/2013 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)(9) 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 no other involved and/or federal agencies on this matter.

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

Comment #2: Applicant to discuss project.

Mr. Diana: The owners would like to renovate the existing basement to remove all of the mechanical electrical systems. They want to raise it up to the first floor. In addition, they would occupy an existing bedroom. They would like to construct a new attached bedroom. It is an existing 3-bedroom house. It would remain as a 3-bedroom house.

Comment #3: Conservation Board comments – pending

Comment #4: Architectural Review Board comments – pending

Comment #5: Greenwood Lake Commission Comments – pending submittal

Comment #6: OCPD: pending submittal

Comment #7: A dye test will have to be conducted by a licensed professional and witnessed the by Town of Warwick or proof that the septic has been pumped within three years must be submitted to the Building Department.

James Diana: We could certify that this work has already been done. We have the septic pump out receipt to give to you.

Mr. Astorino: Ok. Thank you.

Comment #8: A site inspection may be necessary to review the existing site for stormwater concerns and building height.

Mr. Astorino: Laura, we could take a look at that as they move forward.

Laura Barca: Yes.

Mr. Astorino: It is not really a huge site. I don't think we would need to have everyone out there for a 3 minute site visit. We could take a ride by out there to take a look at it.

Laura Barca: Ok.

Comment #9: Applicant to add a note to the plan stating that the home will remain with three bedrooms in it.

James Diana: Yes.

Dennis Guzzo: Yes.

Mr. Astorino: Ok. Just put a note on the plan.

James Diana: Yes. We will put a note on the plan.

Laura Barca: The Town's Assessor does have it in their records that it is a 3-bedroom house.

Mr. Astorino: Ok.

Comment #10: The planning board has the option to waive the requirement for contours on the site plan; property is level.

Mr. Astorino: I don't think we would have a problem with that.

Comment #11: The information on the neighbors within 500-ft is not shown on the plan (e.g., address and section-block-lot).

James Diana: Will do.

Comment #12: Applicant to provide photographs toward the property and away from the property.

James Diana: Will do.

Comment #13: A table showing the Town's five overlay district must be added to the drawings.

James Diana: Ok.

Comment #14: A surveyor will need to sign/seal the survey prepared for this property.

James Diana: Correct.

Comment #15: The locations of the wells (if any – private water system) and septic systems on this property and within 200-ft must be shown.

Mr. Astorino: I believe that is in a Water District and there are no wells on the property. Is that correct?

James Diana: Yes. There is no well on the property.

Comment #16: Sheet 1 shows a retaining wall northeast of the proposed addition; Applicant to clarify who owns this wall.

James Diana: I ask the Board which wall you are asking about.

Laura Barca: We talked about that at the Workshop. That was the one where the people that owned it before you kind of built it out and added your property to.

Dennis Guzzo: You have a letter from a Lawyer stating that nobody has challenged me on that in the last 15 years. Nobody has challenged the previous owners. It is my property.

Mr. McConnell: That is adverse possession.

Mr. Astorino: Right. That is adverse possession.

Dennis Guzzo: You have the letter from my Lawyer when I purchased the house.

Laura Barca: Ok. That comment has been satisfied.

Dennis Guzzo: Thank you.

Comment #17: This property is an existing small lot and therefore SM zoning and §164-45.1 apply; the following variances are required:

- a. Minimum lot area: no change from survey  
Req'd: 0.5 acre (SM zone), provided: 0.18 acre
- b. Lot depth: no change from survey  
Req'd: 100' (SM zone), prop: 72' & 40'
- c. Front Yard:  
Req'd: 30-ft, provided: 8-ft (existing 3-ft)
- d. Rear Yard:

Req'd: 30-ft, provided: 5-ft

e. Lot Coverage:

Maximum: 30%, existing: 37% proposed: 41%

Mr. Astorino: That is something you would have to go to the ZBA for. We talked about it at the Work Session. I don't see it as a big issue. Does the Board want to give a positive recommendation to the ZBA on this application? Do any Board members have any issues with this?

Mr. Showalter: I don't have an issue.

Mr. McConnell: I don't have an issue.

Mr. Astorino: Ok. John, could you take care of that?

Mr. Bollenbach: I will take a look at this tomorrow. The minimum lot area, the area is what it is. There are no changes. It is pre-existing. I would think a variance would not be applicable for lot depth, as long it is within the building setbacks and there is no additional encroachment.

James Diana: We are not going out of the line of the existing structure.

Mr. Bollenbach: The variance for lot coverage might be the one big issue. I would have to confirm that.

James Diana: Ok.

Mr. Astorino: Ok. John, will take a look at that. Coming from our end, I don't think this would be a big issue here. The Planning Board would give a positive recommendation to the ZBA.

John Bollenbach: Ok.

Mr. Ruszkiewicz makes a motion to send the Guzzo Site Plan application to the ZBA with a positive recommendation from the Planning Board.

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

Mr. Astorino: Usually it is a consensus. Now it has been made official.

Comment #18: Erosion and sediment control measures must be shown to prevent sediment from entering Greenwood Lake.

James Diana: We will take care of that.

Comment #19: Provide a map note stating that the proposed construction or use shall not begin until the maps are signed and the Planning Board chairman and Building Department permits have been obtained.

James Diana: Ok.

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

James Diana: Will do.

Comment #21: Applicant to clarify machinery involved with construction; Planning Board to determine if a private road bond is necessary.

Mr. Astorino: It is not a Private Road. Lake Shore Road is a Town Road.

James Diana: Ok. It is a Town Road.

Comment #22: Payment of all fees.

James Diana: Ok.

Mr. Astorino: Do any Board members or Professionals have any comments or concerns? The Board has no concerns. You are off to the ZBA.

Mr. Bollenbach: Does the applicant wish to be set for a public hearing?

James Diana: Yes. We ask that the Board sets us for a public hearing.

**Mr. McConnell makes a motion to set the Dennis & Virginia Guzzo Site Plan Application for a Public Hearing at the next available agenda.**

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

Mr. Astorino: Once you get your ZBA stuff taken care of and you resubmit revised plans to us, then we will put you on for a public hearing at the next available agenda.

James Diana: Ok. Thank you.

Dennis Guzzo: Thank you.

***Pochuck Views Section I Amended Approval***

Application for 2<sup>nd</sup> Amended Final Approval for filing Section I to consist of a 2-Lot subdivision, situated on tax parcels S 24 B 1 L 20.1 and L 35; parcels located on the western side of Glenwood Road 3500 feet south of Newport Bridge Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. Previous Approval was granted on March 20, 2013.

Representing the applicant: Dave Getz, from Lehman & Getz Engineering and Applicant.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Modification of declaration language to Planning Board attorney's specifications.
4. The Applicant is requesting a waiver from §168-17 Street Specifications Grades and Vertical Curves (proposed 14%, whereas maximum slope allowed is 10%). (Planning Board granted 11/21/12.)
5. The declaration information for the Ridgeline Overlay District will need to be shown. (Planning Board granted 11/21/12.)
6. All other comments relating to Section 2 from HDR letter dated March 20, 2013 remain.
7. Prior to Planning Board approval for Section 2 a bond and inspection fees for the private road shall be determined to the Planning Board Engineer's specification.
8. Prior to Planning Board approval for Section 2 payment in lieu of parkland fees per §75-3.A(2)(a)[3] for three lots.
9. Payment of all fees.

The following comment submitted by the Conservation Board:

Pochuck Views Section 1 Amended Approval – None submitted.

The following comment submitted by the ARB:

Pochuck Views Section 1 Amended Approval – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. McConnell: This SEQR comment has been prepared by Mr. Ted Fink, dated 9/18/13: *“Pochuck Views has requested an amendment to its previously approved Subdivision application. The Planning Board issued a Negative Declaration on this project on 11/21/2012, meaning that there will be no significant adverse environmental impacts from the subdivision. There are no changes to the subdivision layout or its land disturbance activities proposed on the amended application that would lead to significant adverse effects. So, the prior Negative Declaration is still valid and no further action needs to be taken under SEQR”.*

Comment #2: Applicant to discuss project.

Dave Getz: Back earlier this year; we filed a map for Section I. Section II is for 4-proposed lots that would be served by a Private Road. Section I just includes an existing house. With that, prior to filing the map, we filed a declaration. The declaration spelled out Ag Protection Notes and some information regarding the Private Road. Also included was the driveway that must be relocated if and when that road would be built. There is a potential buyer who is living in the house that they are renting. We had agreed to come back and revise the declaration to eliminate her maintenance obligation of the Private Road in the future. We are not proposing to change anything with the subdivision. It is just the agreement about the Private Road.

Mr. McConnell: The Private Road would remain where it was. Is it about who is responsible for it?

Dave Getz: Yes. The declaration that was filed back in May said that Lot #1 would contribute 10% towards the maintenance. The revised declaration would say 0%. The cost of the road would be shared by the 4 new lots, not the existing lot.

Mr. Astorino: Ok.

Comment #3: Modification of declaration language to Planning Board attorney's specifications.

Dave Getz: We submitted that today to the Attorneys. John and Laura have it for review.

Mr. Bollenbach: There is one more item that will be revised. There was a question as to a requirement from OCDPW that the existing driveway for Lot 1 Section I, at such time that Section II is approved and that new road goes in, they would have to relocate the driveway to access the new road. OCDPW would allow only one curb cut. It was to work that out on whose responsibility it would be and who would pay for it.

Mr. Astorino: Ok.

Comment #4: The Applicant is requesting a waiver from §168-17 Street Specifications Grades and Vertical Curves (proposed 14%, whereas maximum slope allowed is 10%). (Planning Board granted 11/21/12.)

Mr. Astorino: Laura, are these place keepers?

Mr. Bollenbach: No. It is a new approval. It is an amended approval.

Laura Barca: Right.

Mr. Astorino: Ok.

Comment #5: The declaration information for the Ridgeline Overlay District will need to be shown. (Planning Board granted 11/21/12.)

Laura Barca: John, what do we do with this?

Mr. Bollenbach: Just include this and all these comments.

Laura Barca: You want us just to include them. Does the Planning Board have to re-grant them?

John Bollenbach: No.

Laura Barca: Ok.

Dave Getz: I am almost certain that the Ridgeline didn't need to be shown. If you remember that there was a small section of the property it was not within the setbacks. It was agreed that it wasn't needed.

Mr. Astorino: You are absolutely correct.

Laura Barca: Right. That was the way the Planning Board granted waivers shown.

Mr. Astorino: It should just say Planning Board granted waivers. It's a typo.

Dave Getz: Ok.

Comment #6: All other comments relating to Section 2 from HDR letter dated March 20, 2013 remain.

Comment #7: Prior to Planning Board approval for Section 2 a bond and inspection fees for the private road shall be determined to the Planning Board Engineer's specification.

Comment #8: Prior to Planning Board approval for Section 2 payment in lieu of parkland fees per §75-3.A(2)(a)[3] for three lots.

Dave Getz: Ok.

Comment #9: Payment of all fees.

Dave Getz: Ok.

Mr. Astorino: Ok. John, what do we do next?

Mr. Bollenbach: We need a motion to waive the public hearing. It is substantially the same application. There is no difference.

Mr. Astorino: Ok.

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

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

Mr. Kennedy makes a motion on the Pochuck Views Section I application, granting **2<sup>nd</sup> Amended** Final Approval for filing Section I to consist of a 2-Lot subdivision, situated on tax parcels S 24 B 1 L 20.1 and L 35; parcels located on the western side of Glenwood Road 3500 feet south of Newport Bridge Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on November 21, 2013. Approval is granted subject to the following conditions:

1. Modification of declaration language to Planning Board attorney's specifications.
2. The Applicant is requesting a waiver from §168-17 Street Specifications Grades and Vertical Curves (proposed 14%, whereas maximum slope allowed is 10%). (Planning Board waiver granted 11/21/12.)
3. The declaration information for the Ridgeline Overlay District will need to be shown. (Planning Board waiver granted 11/21/12.)
4. All other comments relating to Section 2 from HDR letter dated March 20, 2013 remain.
5. Prior to Planning Board approval for Section 2 a bond and inspection fees for the private road shall be determined to the Planning Board Engineer's specification.
6. Prior to Planning Board approval for Section 2 payment in lieu of parkland fees per §75-3.A(2)(a)[3] for three lots.
7. Payment of all fees.

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

Dave Getz: Thank you.

**Other Considerations:**

1. **McFarland Subdivision #4** – Letter from Karen Emmerich, Lehman & Getz, dated 8/27/13 addressed to the Planning Board in regards to the McFarland Subdivision #4 – requesting a 6-Month Extension on “Amended” Final Approval of a proposed 4-Lot subdivision, situated on tax parcel SBL # 54-1-25.13; parcel located on the northern side of State Highway 17A 300± feet east of Forester Avenue, in the SM zone, of the Town of Warwick. Conditional Final Approval was granted on, 2/20/13. *The Applicant has stated that the Attorneys are still finalizing the numerous easements and declarations. They hope to have that completed soon.* The 6-Month Extension becomes effective on, 8/20/13.

Mr. Bollenbach: This has been a little bit of a torture.

Mr. Astorino: Have you received the declarations?

Mr. Bollenbach: The declarations are in. I have reviewed them. I have made revisions to them 3 months ago. Those revisions still have not been incorporated. There was supposed to be a Schedule A attached. It was not attached. There was supposed to be a Schedule B attached. That was not attached.

Mr. Astorino: Who is their Attorney?

Mr. Bollenbach: There were supposed to be descriptions provided. I believe John McGloin had done the survey. It would be nice if possibly they could put a date on the descriptions. They have Doug Stage representing one of the McFarland brothers. There is Peter Barlett representing another brother. There is Bob Kraulik representing the other subdivision, Warwick Grove. There are a couple more players involved in this matter. I have been on the phone with the Attorneys. It is up to them now.

Mr. Astorino: Maybe you could give another phone call to give them a little push. This is getting a little ridiculous now.

Mr. McConnell makes a motion on the McFarland Subdivision #4 application, granting a 6-Month Extension on “Amended” Final Approval of a proposed 4-Lot subdivision. SBL # 54-1-25.13. Amended Conditional Final Approval was granted on, 2/20/13.

The 6-Month Extension becomes effective on, 8/20/13.

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

2. **Adele Grill Subdivision** – Letter from Adele Grill, dated 8/30/13 addressed to the Planning Board in regards to the Grill Subdivision – requesting “**Re-Approval**” of 2<sup>nd</sup> Amended Final Approval of a proposed 4-Lot cluster subdivision, situated on tax parcels SBL # 29-1-71 and 72; parcels located on the westerly side of Distillery Road 750 feet north of Pine Island Turnpike, in the RU zone, of the Town of Warwick. The 2<sup>nd</sup> Amended Final Approval was granted on 8/1/12. *The Applicant has stated due to the economic climate and the sluggish real estate market the Re-Approval is needed.* Re-Approval becomes effective on 8/1/13, subject to the conditions of 2<sup>nd</sup> Amended Final Approval Granted on 8/1/12.

Mr. Bollenbach: Do they have any escrow on this?

Mr. Astorino: Here is the deal with this. She has paid her Re-Approval fee. There is no escrow. There is one thing that I will let Connie explain. The Secretaries do a very good job in that office on informing applicants of their re-approval and/or extensions. It is not really our job or our Secretaries job to babysit any application that goes through that office. They do it as a courtesy. It was done in this case. Connie got slammed by the applicant that she never reminded Ms. Grill about her approval expiring. I just want to put it on record that we are not here to remind them when their approvals are expiring or when they need extensions. I don't think it is appropriate to get slammed like that.

Connie Sardo: I have been informing applicants about their approvals expiring as a courtesy. On 7/3/13, I was advised that her approval was expiring on 8/1/13. I put a call into Ms. Grill on 7/5/13 at 11:00a.m.. When I call her, I never get to speak to her. I always get her voice mail. I don't have any email or any other way to contact her. I left her a message on her voice mail that day reminding her of her approval expiring on 8/1/13. That was the only call I made. Ms. Grill came into the Planning office on 8/30/13. I was off from work that day. She made a complaint that I had never contacted her. I have it on record that I did try to contact her. On 9/3/13, I called Ms. Grill again. Again, I received her voice mail and I left a long detailed message. On 9/4/13, she returned my call. She was still a little hesitant on it. She said she would be in on 9/16/13 with the \$250.00 Re-Approval fee check, but no escrow.

Mr. Astorino: It covers what we are doing this evening.

Mr. Bollenbach: This is it. I get so many questions from the Building Department on this project. I have spent a lot of time on this.

Mr. Astorino: I know that.

Mr. Bollenbach: We have given her a lot of courtesies along the way that are not appreciated.

Mr. Astorino: I happen to agree. Could we have a motion on the Re-Approval? We have the money to cover it for this time. We will worry about the next time.

Mr. McConnell Makes a motion on the Adele Grills Subdivision, granting ***“Re-Approval”*** of Final Approval (Vote 5-0-0) for a proposed 4-Lot cluster subdivision, situated on tax parcels S 29 B 1 L 71 and L 72; parcels located on the westerly side of Distillery Road 750 feet north of Pine Island Turnpike, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of 2<sup>nd</sup> Amended Final Approval granted on, August 1, 2012. (See attached)

Re-Approval of 2<sup>nd</sup> Amended Final Approval becomes effective on 8/1/13.

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

**3. Planning Board Minutes of 8/21/13 for PB Approval.**

Mr. Kennedy makes a motion to Approve the 8/21/13 Planning Board Minutes.

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

**4. Planning Board to discuss canceling the 9/23/13 W.S. & 10/2/13 PB Meeting.**

Mr. Astorino: We do have one new application. It is a 4-Lot Major subdivision that has been submitted. I will leave it up to the Board if you want to have a meeting. I don't have a problem with having a meeting for one application.

Mr. McConnell: We have something submitted.

Mr. Kennedy: I don't have a problem with having a meeting.

Mr. Astorino: Ok. We will keep the 9/23/13 Work Session and the 10/2/13 Planning Board Meeting.

**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 September 18, 2013 Planning Board Meeting.**

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