

TOWN OF WARWICK PLANNING BOARD

October 19, 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, October 19, 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 Max and Linda Blake** - Application for Site Plan Approval and Special Use Permit for the construction and use of a 310 square-foot dog kennel inside an existing dwelling with an outdoor fenced exercise area, situated on tax parcel S 66 B 1 L 21.2; project located on the south side of Briller Road 1,300± feet south of Continental Road (64 Blake Road), in the CO zone, of the Town of Warwick, County of Orange, State of New York.

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

Connie Sardo: Mr. Chairman, we just received the certified mailings for the Blake 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 – 09/23/16 advisory comment for noise
6. TW Building Department – 07/25/08 TW letter to Blake stating that planning board special permit is required; this property has 10 open permits with the building department that will need to be closed as this project moves forward; 5 permits have been closed out to date.
7. Applicant to clarify if the kennel contains a separate bathroom facility. A note should be added to the plan.
8. Applicant to clarify the disposal location and/or method disposing of the dog waste. A note should be added to the plan.
9. Applicant to clarify if there is any existing or proposed fencing on the property. Information should be added to the plan.

10. A note should be added to the plan stating that dog will be kenneled or leashed at all times. Applicant can remove this note if desired; it was from a different kennel operation with different specifications that this proposed operation.
11. Planning board to discuss Town of Warwick General Conditions for Special Permits (§164-64.E), Town of Warwick Special Conditions for animals [§164-46.J.(14), (16), (19), and (101)], NYS Ag and Markets Pet Dealer Licensing Program Guidelines, and Minimum space requirements for dogs).
12. Provide a map note stating that “Planning Board authorization for site plan and kennel special use becomes effective upon the completion of all conditions of the Conditional Final Approval and the Planning Board Chairman’s signature on the map.”
13. The declaration information for the Ridgeline Overlay Notes and Common Driveway Use and Maintenance Notes must be added to the plans.
14. Surveyor to certify that iron rods have been set at all property corners.
15. Payment of all fees.

The following comment submitted by the Conservation Board:

Max and Linda Blake – None submitted.

The following comment submitted by the ARB:

Max and Linda Blake – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This is an Unlisted Action under SEQRA. The Planning Board has declared itself Lead Agency. At this point, we are gathering information in support of a SEQRA determination.

Comment #2: Applicant to discuss project.

Karen Emmerich: We are proposing a kennel operation at an existing dwelling. It is 310 square feet in size. It is located in a separate section of the home that is used for the kennel. Basically the operation is self-contained. No one comes to the site to see the dogs. The dogs are either delivered or shipped to the perspective owners. They are very small dogs.

Max Blake: Most of the dogs are 3 pound dogs.

Mr. Astorino: We were out there for a site visit. We had seen that.

Comment #3: Conservation Board – pending comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – 09/23/16 advisory comment for noise

Mr. Astorino: I don’ believe it is pertinent for up there.

Comment #6: TW Building Department – 07/25/08 TW letter to Blake stating that planning board special permit is required; this property has 10 open permits with the building department that will need to be closed as this project moves forward; 5 permits have been closed out to date.

Mr. Astorino: This 2008 letter was to come to the Planning Board back in 2008. Is that correct?

Laura Barca: Yes.

Mr. Astorino: That took a while.

Comment #7: Applicant to clarify if the kennel contains a separate bathroom facility. A note should be added to the plan.

Max Blake: It does.

Karen Emmerich: Yes.

Mr. Astorino: When we had seen that bathroom it is partially used for the dogs as well in the tub we were told. Is that correct?

Max Blake: Yes.

Comment #8: Applicant to clarify the disposal location and/or method disposing of the dog waste. A note should be added to the plan.

Karen Emmerich: Ok.

Comment #9: Applicant to clarify if there is any existing or proposed fencing on the property. Information should be added to the plan.

Karen Emmerich: Do you mean the fencing on the deck?

Mr. Astorino: I would assume as to where you are going to keep the dogs.

Max Blake: Right. They don't go out onto the ground.

Comment #10: A note should be added to the plan stating that dog will be kenneled or leashed at all times. Applicant can remove this note if desired; it was from a different kennel operation with different specifications that this proposed operation.

Mr. Astorino: I guess what this means is that they are not in their cages 24/7? I would hope not.

Max Blake: No. They are mostly out on the deck during good weather. Otherwise they are in the room if it is too cold to go out.

Mr. McConnell: This comment doesn't make sense. I would strike Comment #10.

Mr. Bollenbach: It should be stricken.

Laura Barca: It needs to be stricken. But the reason it is still there is because the applicant has a note on the plan that says dogs will be kenneled or leashed at all times.

Mr. Bollenbach: That note should be removed because that was originally for dangerous dogs.

Laura Barca: I needed to leave the comment there with an additional comment saying if you would like to remove it because it is a different operation.

Mr. Astorino: We are going to make a different comment. Leave this comment here for now as a place keeper. We could always come back to it with a different comment.

Comment #11: Planning board to discuss Town of Warwick General Conditions for Special Permits (§164-64.E), Town of Warwick Special Conditions for animals [§164-46.J.(14), (16), (19), and (101)], NYS Ag and Markets Pet Dealer Licensing Program Guidelines, and Minimum space requirements for dogs).

Mr. Astorino: We have that. It was emailed to us today.

Comment #12: Provide a map note stating that “Planning Board authorization for site plan and kennel special use becomes effective upon the completion of all conditions of the Conditional Final Approval and the Planning Board Chairman’s signature on the map.”

Karen Emmerich: Ok.

Comment #13: The declaration information for the Ridgeline Overlay Notes and Common Driveway Use and Maintenance Notes must be added to the plans.

Karen Emmerich: Will do.

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

Karen Emmerich: I had talked to Laura about this as to whether that was really necessary for this particular operation. There were pins set at certain corners by the Surveyor a number of years ago.

Mr. Bollenbach: That would be for the Board’s consideration.

Mr. Astorino: Yes.

Ms. Little: Where is the closest neighbor to the dwelling?

Karen Emmerich: We have 900 feet to the north, 600 feet to the south, and 300 feet to the trail.

Ms. Little: Ok.

Mr. Astorino: That makes sense.

Mr. McConnell: As I recall, the last time we had a kennel application it needed to be at least 300 feet to a property line.

Karen Emmerich: Yes. That is what the Code says.

Comment #15: Payment of all fees.

Karen Emmerich: Ok.

Mr. Astorino: I am going to add a Comment #16. Planning Board to discuss site visit. We received a letter from Suzyn Barron, President of the Warwick Valley Humane Society, Inc., dated October 14, 2016 addressed to the Planning Board in regards to Linda and Max Blake (PreciousPuppies). The letter is stated as follows:

*“At the recent inspection of premises belonging to Linda and max Blake, Animal Control Officer Rebecca Hanlon stated that there was an outdoor enclosure on the deck lacking proper shelter for any dogs left outside per of the NYS Agriculture & Markets Law, Article 26, Section 353b. The deck appeared to be recently washed as it was still wet and had not rained.*

*ACO Hanlon immediately noticed an intense odor of urine upon entering the house. The dogs’ room also appeared recently cleaned, however, the strong urine odor remained.*

*ACO Hanlon noted several areas of non-compliance with the NYS Agriculture & Markets Division of Animal Industry Pet Dealer Licensing Program guidelines:*

#### *HOUSING:*

- 1. The dog room contains porous materials on the walls and floor which hold in dampness and odors as evidenced by the overwhelming urine odor. The odor is unhealthy for the animas as well as humans.*
- 2. The flooring of the outdoor enclosure/exercise area is decking material which potentially can harbor Parasites and other microorganisms and can be difficult to keep clean.*
- 3. There was no roofing over the outdoor enclosure.*
- 4. ACO Hanlon observed one dog whose foot passed through the wire flooring of the cage.*
- 5. There was obviously no adequate ventilation for the dog room with only two windows, one of which contained an air conditioner which was off.*
- 6. Mrs. Blake Indicated that she uses a bath tub as a whelping box which is inadequate, not allowing the mother dog to exit at will.*

#### *ZONING:*

*There are total of 8 dogs licensed to P.O. Box 1, Warwick, New York exceeding the Warwick Town Ordinance permitting only 3 dogs per residence: 2 under Linda Blake, 2 under O’Ryan, 2 under Arianna Blake, 2 under Brian Blake.*

*DOG LICENSING:*

*At the time of the inspection, Mrs. Blake stated that she has a total of 12 dogs, including four dogs which she said were at the veterinary hospital. Of the 12 dogs only 8 dogs are listed as licensed per the Warwick Town Clerk under four different names.*

*I have expressed our concerns to Ms. Ana Colon of NYS Agriculture and Markets Law regarding all of the housing issues listed above. Ms. Colon explained that since Mrs. Blake, licensed as a pet dealer, has violated the Zoning Laws, the Town of Warwick may send a letter to Ms. Colon stating these violations which will cause Mrs. Blake pet dealer license to be revoked.*

*For the animals,*

*Suzyn Barron  
President*

Mr. Astorino: We have that letter for the record. We do have a copy of our Town Code for everyone. We also have the NYS Department of Agriculture and Markets Division of Animal Industry Pet Dealer Licensing Program Guidelines which we received. We will have some reading to do on that. Regarding the letter, those were the conditions that were found on the site. Do any Board members or Professionals want to add to that?

Ms. Little: I agree with everything that was in that letter. I have a lot of concerns about the puppies' environment. I did take a look at the NYS Department of Agriculture & Markets on who is a pet dealer. I did some rough calculations based on a couple of the French Bulldogs that are expecting. That one bath tub is not enough size wise for an average litter of 4 puppies and mother in there. Also there is no access for the mother dog to get out of that tub which is required.

Max Blake: In our experience we get them in and out. I understand.

Ms. Little: Not easily. They have slippery sides. They are curved. It would be hard for them to get up. That was one thing that I looked at. In our Town Code under Accessory to a residential use, it states that not more than one bitch and two other dog over six months old. You have clearly exceeded that.

Max Blake: Yes.

Ms. Little: The very strong ammonia smell, I personally believe it is a health and safety violation not only for the dogs but also for the humans that are in there. When I was at the site visit, I had such a severe asthma attack. I almost had to go to the emergency room.

Max Blake: Sorry.

Ms. Little: I am very concerned. Those dogs are much closer to the floor level and to that source of ammonia than I am. Regarding emergency services up there, if there was an emergency up there, your driveway is difficult to navigate. That driveway would need some significant work for if a fire truck has to get up there. We also discussed my other

concerns with the non-impervious flooring both in the house and on the deck and walls. There were some sharp edges on some of the chicken wire that you have protecting them so they don't fall over. If one of them got frisky and jumped up, they could cut their paws on the sharp edges of that wire. Regarding ventilation, ventilation systems such as exhausting air system or central duct ventilation system are recommended for these facilities. There was no ventilation in that room. There were 2 windows. They both were closed.

Mr. Astorino: That is coming from the Guidelines. There are guidelines that are pretty clear in here.

Ms. Little: Ten to fifteen air exchangers per hour should provide adequate ventilation.

Mr. Astorino: We do have guidelines to go by. Do any other Board members have anything at this time?

Mr. McConnell: I would like to reemphasize for the record that we did not see all of the dogs that are mentioned in the letter from the Animal Shelter. The French bulldogs which are quite a bit larger than the Yorkies, we did not have the ability to really get a sense as to what that room would look like with the present level of dogs. I find that too difficult in terms of my ability to go forward. I don't have adequate information even on what is there setting aside for a moment on how many litters, where they are, and etc... Chris, I don't agree with you on the tub for not being adequate for a litter of French bulldogs. I think that it is more than adequate. It is certainly what we were lead to believe but it may be just not exact, but if you have more than one litter at a time being whelped, there is no provision for that. Chris, maybe that was what you were getting at.

Ms. Little: No. But you have brought up another good point. Two of the Frenches are expecting roughly about the same time. There would definitely not be enough room for two litters in that tub. I actually used the calculations by the USDA, The Center for Food Security and Public Health. They give you a calculation. You take the length of the mother dog and add 6 inches times the length of the dog plus 6 inches. That would give you the minimum square required space in inches.

Mr. McConnell: I am not sure for what period of time they are talking about. If they are talking about for the actual whelping, that would certainly have a different result than if they were talking about keeping the puppies in that enclosure until they are ready to go to their new homes because they are growing so rapidly. The figures don't illuminate completely.

Ms. Little: This says for nursing puppies.

Mr. McConnell: I think that is talking about for keeping them there for some period of time. I am guessing that you don't keep them there for long probably no more than a week.

Mr. Astorino: We could discuss the conditions of this on what should be required as we move forward on this project. It was obvious when we were there that there were deficiencies. I think we could all agree on that.

Mr. McConnell: Yes.

Mr. Astorino: It needs to be brought up to a different standard.

Mr. McConnell: One of the deficiencies that it was eluded to that I found particularly upsetting was that these dogs spend a good deal of their lives on a metal mesh grate. These are tiny dogs with tiny feet. Nails get caught. I know why they are elevated in the way that they are. It is so when they eliminate it falls through so that they are not in it. I find that to be disturbing because I am concerned about little toes and toe nails getting caught. That could cause great harm.

Mr. Astorino: As we go through this process and these changes happen or don't happen, which I think they should happen, I would like to do another site visit with the Animal Control. There are some deficiencies on that site that need to be handled before this project goes too much further. Does the Board have anything else?

Ms. Little: I have a question on one of the comments. There are 5 open permits. What are they? How far are they close to completion?

Max Blake: As far as I know right now, we have 2 open permits that are remaining. They are electrical final inspections where the roughing was done years ago but I can't find Tri-State Inspectors. I have put 30 calls into them. I have had no response. I would have to start over with another Electrical Company and start all over again.

Mr. Astorino: This Pet Dealer or dog operation has been going on since 2008. Is that correct?

Max Blake: Yes. We had a store in Monroe for many years. Then we had a store in Tallman, New York for a number of years. We were robbed a couple of times. The internet process worked pretty well. We closed the store. We started in the house. Then we moved to a pet store kind of operation for many years.

Mr. Astorino: It just seems disturbing that a letter was sent in 2008. Here we are almost into 2017. We are just seeing this now. This is a major issue.

Mr. MacDonald: Regarding the roughing electric, you said that was done.

Max Blake: Yes.

Mr. MacDonald: That was never inspected. Is that correct?

Max Blake: The roughing inspection was done. I have the yellow stickers from the rough inspection. I can't remember if a final inspection was done or not. I believe it was. I can't get a response from the inspection company.

Mr. MacDonald: Is all the work closed in now?

Max Blake: Yes. Everything is closed. I have been trying to get them to come back. I haven't been able to make any contact with them. I might have to start all over again.

Ms. Little: I have a question on Comment #7 regarding the separate bathroom facility. That bathroom is part of the house proper.

Max Blake: I have 3 other bathrooms. That one bathroom is dedicated to the dogs.

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

Theresa McQuade: I live on Continental Road. I just wanted to say that this past summer, I had a knock on my door. That person said they were here to pick up their English bulldog. To say that they would never come and pick up the dogs and that there would never be noise... I think there has been complaints about noise. It got quite loud a number of years ago. I can't give you the exact dates. But, it sounded like 101 Dalmatians back there.

Mr. McConnell: How long ago was that?

Theresa McQuade: It was probably about 4 or 5 years ago.

Mr. McConnell: How about the noise?

Theresa McQuade: It has been there. It hasn't been quite as loud or as many as that. If they have 30 dogs, they just don't stay for a week. I think they stay there for about 6 to 8 weeks to get a puppy. You do hear them. But it is not as bad as it was. I think it was in 2008 when it got out of control.

Mr. Astorino: When was the knock on your door?

Theresa McQuade: It was back in June or July of 2016. They were 2 girls from Long Island. That is all I have.

Mr. Astorino: Is there anyone else wishing to address the Blake Kennel operation?

Phyllis Briller: I was wondering about the Blake application since there were questions if you were going to leave the public hearing open or have another public hearing.

Mr. Astorino: I believe that is the Board's consensus.

Phyllis Briller: Are you going to leave it open or continue it?

Mr. Astorino: I assume we would adjourn it without date.

Mr. McConnell: Yes. We don't have all of the information.

Mr. Astorino: We need more information. Then it would reconvene as another public hearing. It would be re-noticed.

Phyllis Briller: Ok. I would say as far as myself and all my neighbors that the Blakes like animals. They have been operating what I call a cottage industry of having a few breeding periods per year. We do have considerable concerns about the amount of traffic and if they are asking for 25 dogs with the amount of noise is. If there are 25 adult dogs, then they would like to breed them. If the market changes, then they would like to do something else with those dogs. Maybe they would board dogs or have a doggie daycare, etc... We don't know what 25 dogs mean. That is all I have to say right now.

Mr. Astorino: Thank you. Is there anyone else wishing to address the Blake Kennel application?

Mary Doctor: I live on Continental Road. I have 10 acres of property. It backs up to the Blake's property. It is so wooded and dense back there that you could get lost.

Mr. Astorino: Yes. We all had done a site visit back there.

Mary Doctor: I have never heard the puppies or dogs at all. As far as 20 years ago, I had puppies when I lived in New Jersey. A whelping box, Max is a great builder. He could certainly build a simple whelping box. I can't see it as a problem as far as eliminating this thing about a bath tub.

Mr. Astorino: That is the issue that we have. What is there now is not an acceptable practice from what I have seen from Ag & Markets. That is why we are having the discussion that we are having.

Mary Doctor: I am just saying that could be easily remedied.

Mr. Astorino: Quite frankly that should have been remedied quite a while ago. That is why we are having this discussion.

Mary Doctor: Ok. Once again, his property is the furthest back. He owns many acres.

Mr. Astorino: We have been back there. We have seen it. It is in the woods.

Mary Doctor: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Blake Kennel application? Let the record show no further public comment. We still need more information on this project. We will adjourn the public hearing without date.

**Mr. McConnell makes a motion to adjourn the Blake Kennel application Public Hearing without date.**

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

Mr. Astorino: To the residents that came out for this public hearing. The Blake Kennel application will be re-noticed. There will be another notice sent out to you regarding another public hearing.

Mr. Bollenbach: Did you want to give the applicant any direction? Perhaps they should remedy some of these issues.

Mr. Astorino: Yes. I would like to see all of these things remedied. Max, to be honest to you, maybe you would like to talk to the Animal Control.

Max Blake: The question is that this is a capital investment here. To make a capital investment then get turned down and put another \$10,000 to \$15,000 into it does not work.

Mr. Astorino: The bottom line here is that before we approve any application, we are going to make sure it is correct. Whether it is the Humane Society or not, they don't vote on this application.

Max Blake: I haven't decided yet if we should just go to another store or something.

Mr. Astorino: That would be your call. But keep in mind that you are in violation. That is why you are here in front of the Planning Board.

Max Blake: Yes.

Mr. Astorino: I would say if that is your choice, you would need to do it sooner rather than later.

Max Blake: Yes.

Mr. Astorino: If we don't hear back from you in a timely manner, there would be other avenues pursued.

Mr. McConnell: We actually touched on this that we have an existing ongoing violation.

Mr. Astorino: This has been going on since the year 2008.

Mr. McConnell: I for one am not going to be thrilled about you continuing to produce litters under the violations without showing a good faith effort to clear up the issues that has so far been raised and may be raised. If the way for you to do that is to rent another facility, that might be the best way for you to go. Don't think we are going to go for another 2 years from now with the same situation.

Max Blake: No. It has to be done one way or the other.

Mr. Astorino: It has to be done rapidly. This has been going on since the year 2008.

Mr. McConnell: We are concerned for the health of the animals as well as your health.

Ms. Little: I am definitely concerned for that also.

Mr. Astorino: Karen, if you could get back to the Board in some kind of a time frame. Does the Board want to impose a time frame until we hear back?

Mr. Bollenbach: Provide an update by the next Work Session.

Mr. Astorino: That would be perfect. That sounds like a good plan.

Mr. McConnell: Whether it would be an actual progress or show us a plan.

Mr. Bollenbach: Or, if you are going to discontinue the operation.

Mr. Astorino: If you are going to discontinue, give us a date.

Mr. Bollenbach: Max, you are welcome to talk to Susan Baron at the Animal Shelter. You could talk to her about what types of materials might be acceptable or what are the alternatives. I am sure she would be glad to work with you and give you recommendations.

Mr. Astorino: Connie, when will our next Work Session be?

Connie Sardo: Our next Work Session is November 7, 2016.

Mr. Astorino: Ok. Our next Work Session is on 11/7/16. We would like to have a firm answer one way or another from you.

Max Blake: We will have a plan or decision by then.

Mr. McConnell: Good.

Mr. Astorino: Ok. Thank you.

Karen Emmerich: Ok. Thank you.

Max Blake: Thank you.

**PUBLIC HEARING OF Brian DeMarmels**

Application for Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 42 B 1 L 6; parcel located on Foley Road (31 Foley Road), in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering

Connie Sardo: Mr. Chairman, we just received the certified mailings for the DeMarmels 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 – 07/08/16 advisory comments for area variances, site design/lot site, ridgeline overlay, and wetlands
6. TW Building Department – 07/01/16 no violations
7. The driveway of a flag lot must be paved in its entirety, §137-21.K(2)(a)[3]. A note must be added to the plan for 42-1-6, Proposed Lot 2. Applicant proposing to pave first 150-ft and is requesting a waiver to not pave the rest of the driveway.
8. The square rule (137-21.K(1) – Shape of Lot) must be shown for both lots. Applicant requesting a waiver for Lot 1.
9. The buildable area (137-21.A – Lots to be Buildable) must be shown for both lots. Applicant requesting a waiver for Lot 1.
10. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” Sheet 1, Note 11.
11. The stabilization rate for percolation test #1 is incorrect, please update with the correct number.
12. The existing septic for Lot #1 is proposed to be abandoned; a note must be added to the plan.
13. This subdivision proposes to disturb approximately 1.5 acres and thus requires an Intermediate SWPPP, including two better site design practices.
14. The Applicant must add 911 addresses to the plan.
15. The plans must be signed by the surveyor.
16. The declaration information must be added for Ridgeline and Agricultural Notes.
17. Payment in lieu of parkland for one lot.
18. The declaration information for the Agricultural Notes must be added to the plans.
19. Surveyor to certify that iron rods have been set at all property corners.
20. Payment of all fees.

The following comment submitted by the Conservation Board:

Brian DeMarmels – None submitted.

The following comment submitted by the ARB:

Brian DeMarmels – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This application is an Unlisted Action. He had not taken any action previously on Lead Agency because they had to go to the ZBA for an area variance. I have prepared a Resolution for the Planning Board to declare itself Lead Agency. Following up on that, there were only 2 issues that came up. One issue was that the site is within the Ridgeline Overlay District. They have declaration that they will place on the subdivision plan. It is also located within the Biodiversity Conservation Overlay District. There are no construction plans within the area of the Biodiversity District on the property. In any case if there would be any changes because of the Ridgeline Overlay requirements where you can't move the building 20 feet, they would have to come back before the Planning Board for that. The only other thing is that it is within an area the State identified as archeologically and historic sensitive. We have a letter from SHPO stating no problems. There are no adverse impacts.

Mr. Showalter makes a motion for Lead Agency.

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

617.6

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

Name of Action: DeMarmels Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Brian DeMarmels for a  $\pm$  10.0199 acre parcel of land located at 31 Foley Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 6/9/2016 was submitted at the time of application, and

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

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

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

Comment #2: Applicant to discuss project.

Karen Emmerich: We have a 10-acre parcel that we are subdividing into 2 lots. One lot is going to have 1.5 acres. The remainder lot would have 8.5 acres plus or minus. We have received variances from the ZBA for the area of Lot 1 and lot width for Lot 2 as well as lot width on Lot 1. There is an existing house on Lot 1. The proposed dwelling is shown on Lot 2. We have completed soil tests. You have the full design.

Mr. Astorino: Thank you.

Comment #3: Conservation Board – pending comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – 07/08/16 advisory comments for area variances, site design/lot site, ridgeline overlay, and wetlands

Comment #6: TW Building Department – 07/01/16 no violations

Comment #7: The driveway of a flag lot must be paved in its entirety, §137-21.K(2)(a)[3]. A note must be added to the plan for 42-1-6, Proposed Lot 2. Applicant proposing to pave first 150-ft and is requesting a waiver to not pave the rest of the driveway.

Mr. Astorino: Do any Board members have any comments? We had done a site visit. We had seen the row of trees. I thought we were pretty much ok with a consensus on that.

Ms. Little: I did not get to go on the site visit. Is it not going to kick up a lot of dirt?

Mr. Astorino: Where it is located, it will not.

Ms. Little: Ok.

Mr. Astorino: I think it makes sense. We will hold that one. We would have to do a waiver.

Comment #8: The square rule (137-21.K(1) – Shape of Lot) must be shown for both lots. Applicant requesting a waiver for Lot 1.

Mr. McConnell: Is Lot 1 with the existing dwelling?

Mr. Astorino: Yes.

Karen Emmerich: Yes.

Mr. McConnell: I don't see a problem with that.

Comment #9: The buildable area (137-21.A – Lots to be Buildable) must be shown for both lots. Applicant requesting a waiver for Lot 1.

Mr. Astorino: It is built already.

Comment #10: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Sheet 1, Note 11.

Mr. McConnell: Should that be revised for Lot 2?

Mr. Astorino: They are going to do construction of the septic for Lot 1. Is that correct?

Laura Barca: Correct.

Mr. Astorino: I think that note should stand as is.

Mr. McConnell: Ok. Got it.

Comment #11: The stabilization rate for percolation test #1 is incorrect, please update with the correct number.

Karen Emmerich: Ok.

Comment #12: The existing septic for Lot #1 is proposed to be abandoned; a note must be added to the plan.

Karen Emmerich: Will do.

Comment #13: This subdivision proposes to disturb approximately 1.5 acres and thus requires an Intermediate SWPPP, including two better site design practices.

Karen Emmerich: Ok. I know that the applicant is planning on planting some trees. That is one of the SWPPP requirements. I would say that we probably could do a rain garden for at least one of the structures.

Laura Barca: Whatever the two that you decides it needs to be shown on the plan.

Karen Emmerich: Yes.

Comment #14: The Applicant must add 911 addresses to the plan.

Karen Emmerich: Yes. We are waiting to get the neighbor Weiss who lives adjacent there permission to change their address number. Connie, did you get a permission letter from them yet?

Connie Sardo: No.

Karen Emmerich: Ok. I have sent him a letter similar to what we had done with Peter Hull. He has agreed to sign it. I am waiting for that from him.

Mr. Astorino: Ok. It is in the works.

Comment #15: The plans must be signed by the surveyor.

Karen Emmerich: Yes.

Comment #16: The declaration information must be added for Ridgeline and Agricultural Notes.

Karen Emmerich: Will do.

Comment #17: Payment in lieu of parkland for one lot.

Karen Emmerich: Yes.

Comment #18: The declaration information for the Agricultural Notes must be added to the plans.

Karen Emmerich: Yes.

Comment #19: Surveyor to certify that iron rods have been set at all property corners.

Karen Emmerich: Yes.

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 DeMarmels subdivision application, please rise and state your name for the record. Let the record show no public comment.

Mr. McConnell makes a motion for the Negative Declaration.

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

617.12(b)

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

**Name of Action:** DeMarmels 2-Lot 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 other involved agencies pursuant to SEQR, including the Town Zoning Board of Appeals, which has made its own determination of significance on the action and

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated June 9, 2016, 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. Showalter. Motion carried; 5-Ayes.

Mr. McConnell makes a motion to waive the following waivers: Comment #7, Applicant to pave the first 150 feet and not to pave the rest of the driveway. Comment #8, Waiver on the Square Rule for Lot 1. Comment #9, Waiver on the Buildable Area for Lot 1.

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

Ms. Little makes a motion on the Brian DeMarmels application, granting Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 42 B 1 L 6; parcel located on Foley Road (31 Foley Road), in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQRA Negative Declaration was adopted on October 19, 2016. Approval is granted subject to the following conditions:

1. The driveway of a flag lot must be paved in its entirety, §137-21.K(2)(a)[3]. A note must be added to the plan for 42-1-6, Proposed Lot 2. Applicant proposing to pave first 150-ft and is requesting a waiver to not pave the rest of the driveway. (Waived)
2. The square rule (137-21.K(1) – Shape of Lot) must be shown for both lots. Applicant requesting a waiver for Lot 1.(Waived)
3. The buildable area (137-21.A – Lots to be Buildable) must be shown for both lots. Applicant requesting a waiver for Lot 1. (Waived)
4. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” Sheet 1, Note 11.
5. The stabilization rate for percolation test #1 is incorrect, please update with the correct number.
6. The existing septic for Lot #1 is proposed to be abandoned; a note must be added to the plan.
7. This subdivision proposes to disturb approximately 1.5 acres and thus requires an Intermediate SWPPP, including two better site design practices to Planning Board Engineer’s specifications.
8. The Applicant must add 911 addresses to the plan.
9. The plans must be signed by the surveyor.
10. The declaration information must be added for Ridgeline and Agricultural Notes.
11. Payment in lieu of parkland for one lot.
12. The declaration information for the Agricultural Notes must be added to the plans.
13. Surveyor to certify that iron rods have been set at all property corners.
14. Payment of all fees.

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

Karen Emmerich: Thank you.

**PUBLIC HEARING OF Lands of Carol Sapanaro**

Application for Final Approval of a proposed 4-Lot Cluster subdivision, situated on tax parcel S 31 B 2 L 48; parcel located on the north western side of Entin Terrace 1144± feet south west of Ackerman Road (15 Entin Terrace), in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Kirk Rother, P.E.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Sapanaro 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 comment
4. Architectural Review Board – pending comments
5. OC Planning Department – 02/23/15 advisory comment to move house lower on the hill
6. TW Building Department – 01/16/15 open permit for pool (14922), open permit for shed (15076)
7. The Applicant is proposing 10.66 acres or 50.7% open space; the minimum open space required for a cluster subdivision (with no density bonus) is 50%. (Statement.)
8. An Intermediate SWPPP is required, including two Better Site Design practices.
9. Applicant to demonstrate that 46-ft long fire truck can traverse the proposed emergency access turnaround area (**Attachment 1**).
10. Applicant should consider a guiderail or equivalent along portions of driveways with steeper drop-offs (e.g., 15-ft).
11. This subdivision proposes to disturb approximately 1.9 acres and thus requires an intermediate SWPPP, including two better site design practices.
12. Stormwater along all driveways must be shown, including a swale detail with surface covering and calculations. Each swale shown on the plans should not concentrate flow and must have a suitable discharge (including a detail, if appropriate).
13. Along the Lot 4 driveway at 6+50, the swale seems to dissipate on both sides of the driveway but does not provide proper conveyance for the stormwater. Applicant to ensure proper stormwater control.
14. The septic/swale detail shown on Sheet 5 must show/define a surface covering (with calculations).
15. On Sheet 4, the driveway profile for Lot 4 indicates that it will be crowned in the center of the driveway. However, the grading shown for this driveway indicates that it is relatively flat and sometimes pitching in an adverse direction. Around a curve the outside of the curve should be on the high side to counteract the forces of the vehicle going around that curve (there are areas of the driveway that should be superelevated). Adverse cross slopes can be OK in certain situations; however the design speed, vehicle, horizontal alignment, horizontal curvature, rate of vertical curvature, and cross slope need to be provided to demonstrate that they are within the design parameters.

16. The language for what is allowed and/or what is not allowed in the conservation easement must be submitted, including the well on proposed lot 1 (see §164-41.1.J(2)).
17. A maintenance agreement acceptable to the Town of Warwick must be established between the owner and the conservation organization or the Town of Warwick to insure perpetual maintenance of the open space.
18. Provide a note of Sheet 1 with the 911 addresses of each proposed lot.
19. 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.” (Sheet 1, Note 12).
20. Applicant to submit a private road access and maintenance agreement for Entin Terrace and for the proposed common driveway.
21. Plans should be revised to better delineate where the private road (Entin Terrace) and where the common driveway are located.
22. Sheet 1, Note 17 references an extension of the shared driveway; applicant to clarify if this is the extension of the common driveway shown on Sheet 4, the common driveway profile.
23. The declaration information for the Ridgeline Overlay notes and Open Space Area must be added to the plans.
24. Surveyor must sign and seal the plat (Sheet 2).
25. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at all Open Space Area corners.
26. Payment of lieu of parkland fees per §75-3.A(2)(a)(3) for 3 lots.
27. Bonds shall be posted for the proposed common driveway and for the existing private road (Entin Terrace). The bond for Entin Terrace is to confirm that no damage will take place during construction efforts. Site inspection fees must also be provided.
28. Payment of all fees.

The following comment submitted by the Conservation Board:

Lands of Carol Sapanaro – None submitted.

The following comment submitted by the ARB:

Lands of Carol Sapanaro – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has declared itself Lead Agency on this application. It is an Unlisted Action. It is a Cluster subdivision. The issues under SEQRA, it is within the Ridgeline Overlay District. The Applicant did provide to us today the Line of Sight profiles. It shows that the proposed dwellings would not be visible from the nearest public viewing location. It is a Cluster subdivision. More than 50% is protected as open space. That sums it up for SEQRA.

Comment #2: Applicant to discuss project.

Kirk Rother: The application that is before the Board is for a proposed 4-Lot Cluster subdivision. It is situated on approximately 21 acres of land. It is located off a Private Road called Entin Terrace. We are pursuing this as a Cluster subdivision as Ted had said. We prepared a Yield Plan. The Sapanaro's are not looking to take advantage of any of the density bonuses. It is just that the Cluster plan results in a better layout on

this particular piece of property. There is one existing residence which is the Sapanaro's residence. We proposed 3 additional new lots. The property will have more than 50% of open space. We have done soil tests with the Town's Engineer. We proposed individual wells and septic.

Comment #3: Conservation Board – pending comment

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – 02/23/15 advisory comment to move house lower on the hill

Mr. Astorino: The Planning Board had done a site visit. We had deemed that it is in the appropriate site for that home.

Comment #6: TW Building Department – 01/16/15 open permit for pool (14922), open permit for shed (15076)

Mr. Astorino: Kirk, have those been taken care of?

Kirk Rother: I have told Jeff about that. He says they were taken care of.

Mr. Astorino: These open permits go back from January 2015.

Connie Sardo: They have not been closed out. They still need to be closed out.

Laura Barca: I will check on that.

Mr. Astorino: They would have to be closed out before anything could be signed off on.

Kirk Rother: No problem.

Comment #7: The Applicant is proposing 10.66 acres or 50.7% open space; the minimum open space required for a cluster subdivision (with no density bonus) is 50%. (Statement.)

Mr. Astorino: That is what you had pointed out. That is just a statement for the Board.

Comment #8: An Intermediate SWPPP is required, including two Better Site Design practices.

Kirk Rother: I believe just the Cluster is one of them. Is that correct?

Laura Barca: Yes.

Kirk Rother: We will come up with one other.

Mr. Bollenbach: We will add to that comment to the Planning Board Engineer's specifications.

Comment #9: Applicant to demonstrate that 46-ft long fire truck can traverse the proposed emergency access turnaround area (**Attachment 1**).

Kirk Rother: This is something we spoke about at the last meeting. We had done this on another project. What we would do is propose a loop between these two driveways. With the template that was given to me, I was able to push the loop back a little.

Mr. Astorino: Make sure you verify that.

Comment #10: Applicant should consider a guiderail or equivalent along portions of driveways with steeper drop-offs (e.g., 15-ft).

Kirk Rother: No problem.

Comment #11: This subdivision proposes to disturb approximately 1.9 acres and thus requires an intermediate SWPPP, including two better site design practices.

Mr. Astorino: We could strike Comment #11. We already had that comment before which was Comment #8.

Comment #12: Stormwater along all driveways must be shown, including a swale detail with surface covering and calculations. Each swale shown on the plans should not concentrate flow and must have a suitable discharge (including a detail, if appropriate).

Kirk Rother: Ok. We will clarify that.

Comment #13: Along the Lot 4 driveway at 6+50, the swale seems to dissipate on both sides of the driveway but does not provide proper conveyance for the stormwater. Applicant to ensure proper stormwater control.

Kirk Rother: I took a look at that. We will clarify that.

Comment #14: The septic/swale detail shown on Sheet 5 must show/define a surface covering (with calculations).

Kirk Rother: Ok. This is a swale detail. It is right out of the Board of Health book. The surface would be grass.

Laura Barca: You will need to show that on the plans.

Kirk Rother: No problem.

Comment #15: On Sheet 4, the driveway profile for Lot 4 indicates that it will be crowned in the center of the driveway. However, the grading shown for this driveway indicates that it is relatively flat and sometimes pitching in an adverse direction. Around a curve the outside of the curve should be on the high side to counteract the forces of the vehicle going around that curve (there are areas of the driveway that should be superelevated). Adverse cross slopes can be OK in certain situations; however the design speed, vehicle, horizontal alignment, horizontal curvature, rate of vertical curvature, and cross slope need to be provided to demonstrate that they are within the design parameters.

Kirk Rother: Ok.

Mr. Showalter: Laura, are we building a Talladega superspeedway here?

Laura Barca: No. We are not. The reason for the comment is because if you look at the cross-section, which is fine, it shows the high point of the driveway being in the middle. Where it is turning up the driveway, I know that the stormwater comes down both sides of the swales. But, if you are in a vehicle, you don't necessarily want the high point of the driveway always to be in the center.

Mr. Showalter: It does make sense.

Laura Barca: That is what that comment says.

Mr. Showalter: It does make sense. It was just the wording of the comment.

Kirk Rother: I will reword it for her. I will say super elevate the curvy driveway on Lot #4.

Laura Barca: That would be good.

Kirk Rother: Will do.

Mr. Astorino: Just make it safe.

Comment #16: The language for what is allowed and/or what is not allowed in the conservation easement must be submitted, including the well on proposed lot 1 (see §164-41.1.J(2)).

Kirk Rother: Ok. Unlike most Clusters that we have done where they were agricultural properties, we have agricultural uses. We don't really propose anything in this open space besides the well and a portion of the driveway.

Mr. Bollenbach: We could provide that to you. Who is your Attorney? We could provide samples to you. We just had a project over there. It was the Mongelluzzo project that had open space. It would have some definition on what could be used. You could have septic facilities and wells. Somebody in the future might want to have a garden or removal of obnoxious trees and weeds. It is just to have certain parameters on what people can or cannot do.

Kirk Rother: Ok. That is a good idea. We could use Mongelluzzo as an example.

Comment #17: A maintenance agreement acceptable to the Town of Warwick must be established between the owner and the conservation organization or the Town of Warwick to insure perpetual maintenance of the open space.

Mr. Bollenbach: That is not necessarily that it has to be a conservation organization. That might be an applicant's option if they want to pursue that. Otherwise, it would just be an open space declaration.

Kirk Rother: That is what we propose to do. We propose to create a recorded declaration.

Mr. Bollenbach: We could put that to the Planning Board's Attorney's specifications.

Comment #18: Provide a note of Sheet 1 with the 911 addresses of each proposed lot.

Kirk Rother: Ok.

Comment#19: 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." (Sheet 1, Note 12).

Kirk Rother: Ok.

Comment #20: Applicant to submit a private road access and maintenance agreement for Entin Terrace and for the proposed common driveway.

Kirk Rother: Ok.

Comment#21: Plans should be revised to better delineate where the private road (Entin Terrace) and where the common driveway are located.

Kirk Rother: I will clarify that. I will draw a line.

Mr. Bollenbach: Just identify that. It's going to be for two declarations. One is going to be for the maintenance of Entin Terrace itself. The other one is going to be for the common driveways for the 4 lots that come off Entin Terrace. The idea is that you have these additional 4 lots that they should contribute to the maintenance of Entin Terrace as well.

Mr. Astorino: Ok.

Mr. Showalter: That makes sense.

Comment #22: Sheet 1, Note 17 references an extension of the shared driveway; applicant to clarify if this is the extension of the common driveway shown on Sheet 4, the common driveway profile.

Kirk Rother: Yes. I'll change note.

Comment #23: The declaration information for the Ridgeline Overlay notes and Open Space Area must be added to the plans.

Kirk Rother: Yes.

Comment #24: Surveyor must sign and seal the plat (Sheet 2).

Kirk Rother: Yes.

Comment #25: Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at all Open Space Area corners.

Kirk Rother: Yes.

Comment #26: Payment of lieu of parkland fees per §75-3.A(2)(a)(3) for 3 lots.

Kirk Rother: Yes.

Comment #27: Bonds shall be posted for the proposed common driveway and for the existing private road (Entin Terrace). The bond for Entin Terrace is to confirm that no damage will take place during construction efforts. Site inspection fees must also be provided.

Kirk Rother: Ok.

Comment #28: Payment of all fees.

Kirk Rother: Yes.

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

Ms. Little: Where is the pipe line located? Does it go right through the road?

Mr. Bollenbach: Yes.

Ms. Little: Ok. This driveway for Lot #4 is going to be intersecting at some point here. How did that work for safe egress when that road was being all dug up for the pipe line?

Kirk Rother shows Ms. Little the plans and explains to her how the work of the pipeline was done and the safe egress that it has.

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

Mr. Bollenbach: I have a question on the driveway notes. The first 25 feet of the driveways for Lot # 1, #2, and #3 shall be paved. What are the grades and slopes on these?

Laura Barca: It is shown on Sheet 4.

Mr. Bollenbach: Is that adequate? Just show it to be paved.

Kirk Rother: Ok.

Mr. Astorino: Ok. We are good with that. This is a public hearing. If there is anyone in the audience wishing to address the Sapanaro Subdivision application, please rise and state your name for the record.

Gary Panarotto: I have a question regarding Lot 4 in the subdivision. That lot borders my property and other neighbors' property on Ackerman. I had an informal discussion with some of the people here before the meeting started. My question was basically answered. I was wondering if there is any kind of Right-Of-Way provision for dual use driveway to access the back of these properties with mine included.

Mr. Astorino: That would basically be a Right-Of-Way to get to your property.

Gary Panarotto: Right.

Mr. Astorino: I think the comment was if you want to bring that back to the owner and discuss that with him. That would not be something for the Town to get involved in. That would be something for the owner if he would like to entertain that.

Mr. Bollenbach: If you are proposing and the Applicant did propose it that would be something that the Planning Board could entertain.

Kirk Rother: I could ask Jeff about that. Do you know Jeff Sapanaro the owner?

Gary Panarotto: No.

Kirk Rother: I could ask him. Could I ask you what you would use the access for?

Gary Panarotto: I don't know. I just thought that if it ever was to come up, I figured now would be the time to bring it up. Who knows what the future holds.

Kirk Rother: If the Board recalls at the site visit, Jeff plans to build his own personal house there.

Gary Panarotto: Yes.

Kirk Rother: I don't know what he would say.

Gary Panarotto: I just want it to be on the record that I brought this up.

Mr. Astorino: That would be a conversation between you and the Applicant. That is not something the Planning Board could get involved in.

Gary Panarotto: Right.

Mr. McConnell: The only thing I would recommend is be careful as to what you call it. Depending what you call it, it may be required to be paved. You are talking about an extension off a common driveway.

Mr. Astorino: I agree.

Gary Panarotto: I was just looking for the possibility to access through the rear of the property.

Mr. McConnell: Ok.

Mr. Astorino: That would be something between you and the Applicant, if Jeff Sapanaro would even want to entertain someone coming across his property.

Kirk Rother: I could tell you that my hunch is the answer would be no. I will certainly ask Jeff Sapanaro.

Gary Panarotto: Ok. Thank you.

Mr. Astorino: Does anyone else in the audience wishes to address the Sapanaro application? Let the record show no further public comment.

Mr. Kennedy makes a motion for the Negative Declaration.

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

617.12(b)

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

**Name of Action:** Sapanaro Subdivision

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

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

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 11/18/14, 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

**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 Lands of Carol Sapanaro application, granting conditional Final Approval of a proposed 4-Lot Cluster subdivision, situated on tax parcel S 31 B 2 L 48; parcel located on the north western side of Entin Terrace 1144± feet south of west of Ackerman Road (15 Entin Terrace), in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQRA Negative Declaration was adopted on October 19, 2016. Approval is granted subject to the following conditions:

1. TW Building Department – 01/16/15 open permit for pool (14922), open permit for shed (15076)
2. The Applicant is proposing 10.66 acres or 50.7% open space; the minimum open space required for a cluster subdivision (with no density bonus) is 50%. (Statement.)
3. An Intermediate SWPPP is required, including two Better Site Design practices.
4. Applicant to demonstrate that 46-ft long fire truck can traverse the proposed emergency access turnaround area (**Attachment 1**).
5. Applicant should consider a guiderail or equivalent along portions of driveways with steeper drop-offs (e.g., 15-ft).
6. Stormwater along all driveways must be shown, including a swale detail with surface covering and calculations. Each swale shown on the plans should not concentrate flow and must have a suitable discharge (including a detail, if appropriate) to Planning Board Engineer's specifications.
7. Along the Lot 4 driveway at 6+50, the swale seems to dissipate on both sides of the driveway but does not provide proper conveyance for the stormwater. Applicant to ensure proper stormwater control.
8. The septic/swale detail shown on Sheet 5 must show/define a surface covering (with calculations).
9. On Sheet 4, the driveway profile for Lot 4 indicates that it will be crowned in the center of the driveway. However, the grading shown for this driveway indicates that it is relatively flat and sometimes pitching in an adverse direction. Around a curve the outside of the curve should be on the high side to counteract the forces of the vehicle going around that curve (there are areas of the driveway that should be superelevated). Adverse cross slopes can be OK in certain situations; however the design speed, vehicle, horizontal alignment, horizontal curvature, rate of vertical curvature, and cross slope need to be provided to demonstrate that they are within the design parameters.
10. The language for what is allowed and/or what is not allowed in the conservation easement must be submitted, including the well on proposed lot 1 (see §164-41.1.J(2)).
11. A maintenance agreement acceptable to the Town of Warwick must be established between the owner and the conservation organization or the Town of Warwick to insure

perpetual maintenance of the open space or other Declaration to Planning Board Attorney's specifications.

12. Provide a note of Sheet 1 with the 911 addresses of each proposed lot.
13. 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." (Sheet 1, Note 12).
14. Applicant to submit a private road access and maintenance agreement for Entin Terrace and for the proposed common driveway to Planning Board Attorney's specifications.
15. Plans should be revised to better delineate where the private road (Entin Terrace) and where the common driveway are located.
16. Sheet 1, Note 17 references an extension of the shared driveway; applicant to clarify if this is the extension of the common driveway shown on Sheet 4, the common driveway profile.
17. The declaration information for the Ridgeline Overlay notes and Open Space Area must be added to the plans.
18. Surveyor must sign and seal the plat (Sheet 2).
19. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at all Open Space Area corners.
20. Payment of lieu of parkland fees per §75-3.A(2)(a)(3) for 3 lots.
21. Bonds shall be posted for the proposed common driveway and for the existing private road (Entin Terrace). The bond for Entin Terrace is to confirm that no damage will take place during construction efforts. Site inspection fees must also be provided.
22. Payment of all fees.

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

Kirk Rother: Thank you.

## Review of Submitted Maps:

### Other Considerations:

1. Memo from Supervisor Sweeton, dated 9/12/16 addressed to the Planning Board regarding Zoning Revisions Chapter 164-60 for the Planning Board review and recommendation to the Town Board

Mr. McConnell makes a motion to send the Planning Board's recommendation letter to the Town Board regarding the Zoning Revisions Chapter 164-60

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

2. **Lands of Rother** – Letter from Kirk Rother, dated 10/17/16 addressed to the Planning Board in regards to Rother Subdivision – requesting 8<sup>th</sup> Re-Approval of Final Approval + 6-Month Extension on conditional Final Approval of a proposed 2-Lot Cluster subdivision, situated on tax parcel SBL #42-1-110.4; parcel located on the western side of C.R. 1, 1,885 feet north of Waterbury Road, in the RU zone, of the Town of Warwick. Conditional Final Approval was granted on 7/16/08. *The applicant has stated that they have been working on the conditions of the approval and all that is outstanding is the legal documents associated with the open space and common driveway.* The 8<sup>th</sup> Re-Approval of Final Approval becomes effective on 7/16/16; subject to the conditions of final approval granted on 7/16/08. The 6-Month Extension becomes effective on 1/16/17.

Mr. McConnell makes a motion on Lands of Rother, granting **8<sup>th</sup> Re-Approval** of Final Approval + 6-Month Extension for a proposed 2-Lot Cluster subdivision, situated on tax parcel SBL # 42-1-110.4; parcel located on the western side of C.R. 1, 1885 feet north of Waterbury 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, 7/16/08. (See attached).

The 8<sup>th</sup> Re-Approval of Final Approval becomes effective on 7/16/16, subject to the conditions of final approval granted on 7/16/08.

The 6-Month Extension becomes effective on 1/16/17.

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

3. Planning Board Minutes of 9/21/16 for PB Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 9/21/16.

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

4. Planning Board to discuss cancelling the 10/24/16 W.S. & 11/2/16 PB Meeting.

Mr. Showalter makes a motion to cancel the 10/24/16 W.S. & 11/2/16 PB Meeting.

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

**Correspondences:**

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

Connie Sardo: No.

**Privilege Of The Floor For Agenda Items!!**

Mr. Astorino: If there is anyone in the audience wishing to address any of the agenda items, please rise and state your name for the record. Let the record show no public comment.

**Mr. McConnell makes a motion to adjourn the October 19, 2016 Planning Board Meeting.**

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