

TOWN OF WARWICK PLANNING BOARD

November 5, 2014

Members present: Chairman, Benjamin Astorino
Roger Showalter, Vice-Chairman
Dennis McConnell, Beau 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, November 5, 2014 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF Salvatore and Linda Mongelluzzo

Application for Final Approval of a proposed 2-Lot Cluster subdivision, situated on tax parcel S 31 B 2 L 44.32; parcel located on the southeasterly side of Ackerman Road 1200± feet off of the intersection of Kings Highway (County Highway 13); in the RU zone, of the Town of Warwick, County of Orange, State of New York. The proposed subdivision was classified by the Town of Warwick Planning Board, acting as Lead Agency under the State Environmental Quality Review Act (SEQR), as an Unlisted Action. On November 21, 2007 the Planning Board issued a SEQR Negative Declaration on the action. Preliminary Approval was subsequently granted on November 21, 2007.

Representing the applicant: Kirk Rother, P.E.

Connie Sardo: Mr. Chairman, we just received the certified mailings for the Mongelluzzo public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: 08/13/12 no comments.
4. Architectural Review Board comments: pending
5. OCPD GML Review: 08/08/12 should use better site design or low impact development to minimize stormwater
6. BD: There is an open permit for a re-roof that needs to be closed out with the Building Department.
7. Please add a note to the plan stating that the driveway shall be installed and maintained without causing any adverse impacts to the adjoining property owners.
8. 9-1-1 information for the proposed lot needs to be shown on the plans.
9. Applicant to provide a detail showing how shared driveway tapers from 20-ft to 10-ft.

10. Applicant to consider widening lot width to 30-ft to allow for grading, clearing, & maintenance of the proposed driveway.
11. The clearing limit lines and existing significant vegetation along the proposed driveway must be shown on the plan.
12. The locations of the erosion control devices must be shown on the site plan.
13. Applicant to provide the property lines, clearing limit lines, and existing vegetation in the existing driveway detail.
14. A construction detail of the driveway, including the limits of the easement for Lot 1 over Lot 2, the divergence point of the shared driveway, etc., should be included on the plan.
15. The language for the Conservation Easement should be shown on the plan and recorded.
16. Declaration information for Agricultural Notes and the Conservation Easement should be shown on the plan.
17. Shared driveway easement to be submitted for review by the Planning Board Attorney.
18. Surveyor to certify that iron rods have been set at all property corners.
19. Payment of Recreational Fees for one lot.
20. Payment of all fees.

The following comment submitted by the Conservation Board:

Salvatore & Linda Mongelluzzo – None submitted.

The following comment submitted by the ARB:

Salvatore & Linda Mongelluzzo – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board issued a Negative Declaration back on November 21, 2007 when they received Preliminary Approval. SEQRA has been fully complied with.

Mr. Astorino: It is a cluster subdivision.

Comment #2: Applicant to discuss project.

Kirk Rother: This project is a proposed 2-Lot Cluster subdivision situated on approximately 6 acres of land. This project started in the year 2005. We received Preliminary Approval. Access to the one newly created lot was proposed on Entin Terrace which is a Private Road. Subsequently to Preliminary Approval the applicant received a DEC stream crossing permit to cross a Class B stream. That was in between Entin Terrace and the home site. That permit was secured. Then, the owners of Entin Terrace decided that they did not want to provide access through that private road. This proposed plan is identical to what was preliminary approved. The primary change is the access to the new home site would be near the existing curb cut onto Ackerman Road.

Comment #3: Conservation Board comments: 08/13/12 no comments.

Comment #4: Architectural Review Board comments: pending

Comment #5: OCPD GML Review: 08/08/12 should use better site design or low impact development to minimize stormwater

Mr. Astorino: It is a cluster subdivision.

Mr. Bollenbach: We no longer have the stream crossing.

Mr. Astorino: Right.

Kirk Rother: 61% will be open space.

Mr. Astorino: Yes. We had to do that in order to meet the requirements of a cluster subdivision.

Comment #6: BD: There is an open permit for a re-roof that needs to be closed out with the Building Department.

Kirk Rother: We will take care of that.

Comment #7: Please add a note to the plan stating that the driveway shall be installed and maintained without causing any adverse impacts to the adjoining property owners.

Kirk Rother: Ok.

Mr. Astorino: That would be for snow plowing, etc...

Comment #8: 9-1-1 information for the proposed lot needs to be shown on the plans.

Kirk Rother: Ok.

Comment #9: Applicant to provide a detail showing how shared driveway tapers from 20-ft to 10-ft.

Kirk Rother: Will do.

Comment #10: Applicant to consider widening lot width to 30-ft to allow for grading, clearing, & maintenance of the proposed driveway.

Mr. Astorino: That means to push it over some more. That would give more of a buffer to the residents.

Kirk Rother: Right. We spoke about widening the lot width. That would be no problem.

Mr. McConnell: Would it interfere with the open space that is required?

Kirk Rother: It would. Unless we left a very thin sliver between the adjoiners on this lot. I don't think the Board desires that.

Mr. McConnell: What did you say was the percentage of open space?

Kirk Rother: We are at 61.2%. We need to be at 50%.

Mr. McConnell: So we could probably widen it a little bit without getting to 50%?

Kirk Rother: Certainly.

Mr. Astorino: Sure.

Mr. McConnell: We should see the calculations.

Mr. Astorino: I think it will be fine.

Comment #11: The clearing limit lines and existing significant vegetation along the proposed driveway must be shown on the plan.

Kirk Rother: No Problem.

Comment #12: The locations of the erosion control devices must be shown on the site plan.

Kirk Rother: Ok.

Comment #13: Applicant to provide the property lines, clearing limit lines, and existing vegetation in the existing driveway detail.

Kirk Rother: Ok.

Comment #14: A construction detail of the driveway, including the limits of the easement for Lot 1 over Lot 2, the divergence point of the shared driveway, etc., should be included on the plan.

Kirk Rother: No problem.

Comment #15: The language for the Conservation Easement should be shown on the plan and recorded.

Kirk Rother: Yes.

Comment #16: Declaration information for Agricultural Notes and the Conservation Easement should be shown on the plan.

Kirk Rother: Ok.

Comment #17: Shared driveway easement to be submitted for review by the Planning Board Attorney.

Kirk Rother: Will do.

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

Kirk Rother: Yes.

Comment #19: Payment of Recreational Fees for one lot.

Kirk Rother: Ok.

Comment #20: Payment of all fees.

Kirk Rother: Yes.

Mr. McConnell: Mr. Chairman, this is a Cluster subdivision with conservation land. We will need to add stone cairns to the open space.

Mr. Astorino: Yes. You are right. They will need to be added at the corners of the open space.

Mr. Bollenbach: Yes. Dennis, you are right. We will add that to Comment #18.

Mr. Astorino: Dennis that was a good call. 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 Mongelluzzo application, please rise and state your name for the record.

Arthur Messino: I own the property right next door on Ackerman Road. First, I am concerned with the actual driveway with that turn that goes into that property. I was wondering if the Board had given any consideration into that. It has been a concern over the years. I live in the house right next door. When we first moved in there was a problem with several automobile accidents. I petitioned the Town. Department of Transportation in Albany eventually changed the road. They paved it. They put up a guardrail and some signs. That was done at my request. I was tired of picking up 17 year old boys off my front yard from car accidents that was occurring every other month. It is still a concern. The turn is still there. I am not trying to interfere with anybody's rights to their property. I have a concern about the public's wellbeing. I am concerned with people coming through there would get injured. I think it is something for the Board to consider when you talk about the location of the driveway.

Mr. Astorino: It is the exact cut of where the driveway is now.

Arthur Messino: Is it coming on top of where it is?

Mr. Astorino: There is no new cut. It is exactly where the Mongelluzzo's driveway is right now.

Arthur Messino: Ok.

Mr. Astorino: That is a fact. We looked at the situation. We knew of the history.

Arthur Messino: Ok.

Mr. Astorino: I went out as the Commissioner of the Highway Department along with our Engineer. As you had seen when we closed down Ackerman Road for the bridge replacement, there was clearing done along the bank.

Arthur Messino: Yes. I had seen that.

Mr. Astorino: It was done up to that neighbor's property line. We couldn't go any more. It is not Town's property. But we did clear that. As far as mitigation, John I discussed this with you as the attorney. As far as the mitigation goes, we understand what it is there.

Arthur Messino: Ok. It is what it is.

Mr. Astorino: Your driveway is also there. We understand that. We went through the mitigation practices. You just pointed them all out regarding the flashing light, the guardrail, the slowdown signs, etc...

Arthur Messino: Yes. Everyone has done a fine job in doing all of that. I totally acknowledge what was done. There has only been a handful of accidents versus the dozens of accidents that use to occur. We all live in this Town. We understand that we have a lot of farm roads. We all have to live around that. This brings everyone's attention as a concern. I was concerned with it.

Mr. Astorino: As a Planning Board, we looked at it also as trips per day.

Arthur Messino: Ok. Fair enough.

Mr. Bollenbach: Thank you for your efforts. It made the situation much better. Your effort has helped with the improvements.

Arthur Messino: Thank you. Secondly, regarding the trees and plantings. Is there a requirement? I'm not talking only about the trees along my driveway but the trees along the driveway that goes past to the next property which is the Zimmerly's property. What type of requirement are we looking at as far as screening?

Mr. Astorino: There is no requirement for screening. It is a driveway.

Arthur Messino: I would request that there would be some type of screening as part of the site.

Mr. Astorino: I know there is an existing tree line there.

Arthur Messino: Right.

Mr. Astorino: If the Board so desires to fill in some spots where it is sparse. That has been an avenue that we have done in the past.

Arthur Messino: That would be a request.

Mr. Astorino: We could look at the plans. Ted, that is something we could do if the Planning Board requests that the applicant is required to put in some additional screening in the sparse areas.

Arthur Messino: I am also speaking on behalf of the neighbors. There was a certain amount of privacy that came with the property. I am not trying to prevent the Mongelluzzo's from doing something with their property that they are entitled to do.

Mr. Astorino: For us, we had asked for the limits of clearing. We could have had our Town Planner take a look at that.

Mr. Fink: Yes.

Mr. Astorino: If you feel that there are a few sparse spots, we could put a note on the plans if the Board so desires.

Arthur Messino: You can understand where we are coming from.

Mr. McConnell: The thing is, I don't think we can require them to do that. In some regards that would be an improvement to your property.

Arthur Messino: Ok.

Mr. McConnell: You certainly have the ability to do some plantings if you are concerned that there may be some impact on your privacy. I could well understand that.

Arthur Messino: Sure.

Mr. McConnell: But to suggest that it would be their responsibility to protect your privacy when they are not doing anything that requires it. They pretty much have it as of right to be able to do that. My suggestion would be whatever our Board decides with our Planner in terms of what would be an appropriate mitigation in that situation that you might try to have a conversation with the Mongelluzzo's. You can say to them, look I would like to plant some things here. Cooperation goes a long way.

Arthur Messino: I understand exactly what you are saying. I think what we are both trying to say is to have some type of a compromise here.

Mr. Astorino: Ted if you could take a look at that and see if we need to put in 3 or 4 trees here to fill in the tree line.

Mr. Fink: Yes.

Mr. Astorino: That would be the Board's decision. Dennis, you are 100% correct. It is not required in the Code.

Mr. McConnell: We had one lot that I recall where we were suggesting to the Developer was where the positioning of a driveway was going to have headlights blasting into somebody's house at night. That was appropriate for mitigation. That was raised at that public hearing. People were saying if they were sitting in their back yards they didn't want to see cars there.

Mr. Bollenbach: Dennis, that really dovetails with Comment #11. It states that the clearing limit lines and existing significant vegetation along the proposed driveway must be shown on the plan. The idea is to try to preserve that as much as practical. What I am suggesting is that we add supplemental screening to the Town Planner's specifications.

Mr. Astorino: I think that would be fine. Ted, you could take a look at that.

Kirk Rother: We absolutely have no problem with moving that driveway over and taking care of that.

Mr. Astorino: Ok. That sounds good. Thank you.

Arthur Messino: Ok. Thank you.

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

Lori Pye: I live at XX Entin Terrace. I wanted to ask about the grading on that side of the road. We have that ditch there. When we had that hurricane the water went all the way around. We have always had problems there with flooding. We have been flooded out down there. I just wanted to bring to your attention about the grading.

Mr. Astorino: There is nothing changing on the existing grade of the driveway as it is. It is still coming up Ackerman Road exactly the way it is.

Lori Pye: But what about that grading for the house?

Mr. Astorino: That was all done back in the year of 2007. We have been through that whole scenario.

Lori Pye: Ok. Thank you.

Mr. Astorino: In any subdivision or in any development no more water can leave the property than it currently does. Is there anyone else wishing to address the Mongelluzzo application? Let the record show no further public comment.

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

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

Mr. Kennedy makes a motion on the Salvatore and Linda Mongelluzzo application, granting Final Approval of a proposed 2-Lot Cluster subdivision, situated on tax parcel S 31 B 2 L 44.32; parcel located on the southeasterly side of Ackerman Road 1200± feet off of the intersection of Kings Highway (County Highway 13); 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, 2007. Approval is granted subject to the following conditions:

1. BD: There is an open permit for a re-roof that needs to be closed out with the Building Department.
2. Please add a note to the plan stating that the driveway shall be installed and maintained without causing any adverse impacts to the adjoining property owners.
3. 9-1-1 information for the proposed lot needs to be shown on the plans.
4. Applicant to provide a detail showing how shared driveway tapers from 20-ft to 10-ft.
5. Applicant to consider widening lot width to 30-ft to allow for grading, clearing, & maintenance of the proposed driveway.

6. The clearing limit lines and existing significant vegetation along the proposed driveway must be shown on the plan with supplemental screening to Town Planner's specifications.
7. The locations of the erosion control devices must be shown on the site plan.
8. Applicant to provide the property lines, clearing limit lines, and existing vegetation in the existing driveway detail.
9. A construction detail of the driveway, including the limits of the easement for Lot 1 over Lot 2, the divergence point of the shared driveway, etc., should be included on the plan.
10. The language for the Conservation Easement should be shown on the plan and recorded.
11. Declaration information for Agricultural Notes and the Conservation Easement should be shown on the plan.
12. Shared driveway easement to be submitted for review by the Planning Board Attorney.
13. Surveyor to certify that iron rods have been set at all property corners and stone cairns at open space property corners.
14. Payment of Recreational Fees for one lot.
15. Payment of all fees.

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

Mr. Astorino: I would like to say something to the residents. Nothing can take place until all of these comments are concluded. Everything on these comments have to be done on the map and to our Professional's satisfactions before the maps are signed and before a building permit could be obtained.

Kirk Rother: Thank you.

Review of Submitted Maps:***Fair Meade Limited Partnership-Miller Lot Line Change***

Application for Sketch Plat Review and Final Approval of a proposed Lot Line Change, situated on tax parcels S 51 B 1 L 7.41 and L 41; parcels located on the south side of State Route 94 1000± feet east of Warwick Turnpike, in the RU/CB zones, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: John McGloin, PLS.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – pending comments
4. Architectural Review Board – pending comments
5. OC Planning Department – pending comments
6. TW Building Department – 10/15/14 permit required for porch, shed, and addition to mobile home; CO required for addition
7. The 911 addresses must be shown on the plan.
8. The lots should be designated as Proposed Lot 1 and Proposed Lot 2; the Orange County Tax Office will determine that new tax id number for each new lot.
9. The proposed lot line must be shown as a different lot line type than the existing lot lines.
10. The Aquifer Impact Assessment must be identified as being required or not being required.
11. 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.”
12. Surveyor to certify that iron rods have been set at all property corners.
13. Payment of all fees.

The following comment submitted by the Conservation Board:

Fair Meade Limited Partnership-Miller Lot Line Change – None submitted.

The following comment submitted by the ARB:

Fair Meade Limited Partnership-Miller Lot Line Change – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This application is a Type 2 Action under SEQR. It meets one of the thresholds. No SEQR review is necessary for this application. There is no construction proposed. I prepared a Resolution for the Planning Board’s consideration.

Mr. McConnell makes a motion for the Type 2 Action.

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

617.6
State Environmental Quality Review (SEQR)
Resolution
Type 2 Action

Name of Action: Fair Meade & Miller Re-Subdivision

Whereas, the Town of Warwick Planning Board is in receipt of a Subdivision application by Fair Meade Limited Partnership and Nancy Miller for a ± 90.408 acre parcel of land located at State Route 94 and Warwick Turnpike, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 10/14/14 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(26) and, therefore, SEQR does not apply, and

Whereas, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed, forwarded to the owners of nearby farm operations and then considered by the Planning Board, 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.

John McGloin: This application is for a proposed lot line change to facilitate separating the zones. We are going to put the lot line right down the RU & CB zone line. It would also allow for the Purchase Development Rights on SBL # 51-1-7.41, which is in process right now.

Comment #3: Conservation Board – pending comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – pending comments

Comment #6: TW Building Department – 10/15/14 permit required for porch, shed, and addition to mobile home; CO required for addition

Mr. Astorino: That comment is just a place keeper for the applicant.

Comment #7: The 911 addresses must be shown on the plan.

John McGloin: Yes.

Comment #8: The lots should be designated as Proposed Lot 1 and Proposed Lot 2; the Orange County Tax Office will determine that new tax id number for each new lot.

John McGloin: Will do.

Comment #9: The proposed lot line must be shown as a different lot line type than the existing lot lines.

John McGloin: Ok.

Comment #10: The Aquifer Impact Assessment must be identified as being required or not being required.

Mr. Astorino: I believe in this instance, it is not applicable.

Mr. Bollenbach: It is not required.

Mr. Astorino: Do we have a consensus from the Board?

Mr. Kennedy: Yes.

Mr. McConnell: Yes.

Mr. Showalter: Yes.

Mr. Astorino: Ok. We have a consensus from the Board on that.

Mr. Bollenbach: Just indicated that it is not required.

Mr. Astorino: Ok. It is not required.

Comment #11: 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."

John McGloin: Yes.

Comment #12: Surveyor to certify that iron rods have been set at all property corners.

John McGloin: Ok.

Comment #13: Payment of all fees.

John McGloin: Yes.

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

Mr. McGloin: We wish to have the public hearing waived? There is no construction proposed.

Mr. Astorino: I don't see a problem with that. How does the Board feel?

Mr. McConnell makes a motion to waive the Final Public Hearing.

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

Ms. Little makes a motion on the Fair Meade Limited Partnership-Miller Lot Line Change application, granting Final Approval for a proposed Lot Line Change, situated on tax parcels S 51 B 1 L 7.41 and L 41; parcels located on the south side of State Route 94 1000± feet east of Warwick Turnpike, in the RU/CB zones, of the Town of Warwick, County of Orange, State of New York. A Type 2 Action was adopted on November 5, 2014. Approval is granted subject to the following conditions:

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 – pending comments
6. TW Building Department – 10/15/14 permit required for porch, shed, and addition to mobile home; CO required for addition
7. The 911 addresses must be shown on the plan.
8. The lots should be designated as Proposed Lot 1 and Proposed Lot 2; the Orange County Tax Office will determine that new tax id number for each new lot.
9. The proposed lot line must be shown as a different lot line type than the existing lot lines.
10. The Aquifer Impact Assessment must be identified as being required or not being required.
11. 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.”
12. Surveyor to certify that iron rods have been set at all property corners.
13. Payment of all fees.

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

John McGloin: Thank you.

Canine Case Squad Site/Forst

Application for Site Plan Approval and Special Use Permit for the construction and use of a dog evaluation and training facility, situated on tax parcel S 20 B 2 L 17.1; project located on the left side of Grandview Place 37 feet west of Lincoln Road (37 Grandview Place) in the RU zone, of the Town of Warwick.

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

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – pending comments
4. Architectural Review Board – pending comments
5. OC Planning Department – pending submittal
6. TW Building Department – 08/28/14 valid open permit for renovations to a pole barn
7. TW ZBA – This proposed application will require variances: §164-40.N(P) a kennel requires 10 acres where 2.6 are provided, lot depth (200' required-134.38' and 94.90' are proposed), front setback (100' required-54.4' and 52.5' are proposed, yards to special areas (100-ft required, 54.4' and 52.5' are proposed) ; §164-46.J(2) requires a 300-ft setback for a dog kennel, runway, or exercise pen; §164-46.J(102) distance between buildings is 30-ft
8. If ZBA approval is granted, the complete ZBA language must be shown on the drawing.
9. The bulk table should be updated for the proposed use of a kennel: §164-46.M Business Use 35 Dog Kennels, §164-46.N Use Group “p.”
10. The existing septic system location should be shown on the site plan.
11. Applicant to clarify if the existing well and septic services both the home and barn.
12. Sheet 1, Notes 8 & 9 state that there is an existing and proposed well and septic system; the proposed information should be added to the plan.
13. The surrounding tax lot number and the N/F information should be shown on the plan.
14. The ridgeline and agricultural notes must be added to the plan.
15. If no stormwater plan is included, a note must be added to the plans stating that there will be no ground disturbance.
16. There is an existing fence shown; applicant to clarify the purpose of this fence, including what dogs are proposed to use this fence.
17. The purpose of the two sheds and pen on the property should be shown.
18. Applicant to clarify where the dog training will take place (indoors or outdoors); add a note to the plan.
19. Application to clarify if there is a maximum number of dogs that will be trained at the facility at any given time; add a note to the plan.
20. Applicant to clarify what the training will include (e.g., will the dog owners also be onsite for the training).
21. Applicant to clarify if the dogs will spend the night at the Canine Case Squad.
22. Parking calculations, including required and proposed parking spaces, must be shown on the plan.
23. Traffic flow patterns and the design of any loading areas, including truck turning movements, must be shown on the plans.
24. A landscaping plan, including a planting schedule and notes assuring replacement of plantings that do not survive three years must be shown on the plan.

25. Show the location, design, and construction materials for all existing and proposed walkways, ramps, outdoor storage/display areas, and retaining walls/fences.
26. Show the location, height, size, materials of construction, design, and illumination of all existing and proposed signs, as required in §164-43.1.
27. Show the location, type, and screening details for solid waste disposal facilities and containers.
28. The plans should estimate noise generation or include a note that states compliance with the Town's Performance Standards (§164-48).
29. 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." Completed: Sheet 1, Note 13.
30. The declaration information for the Ridgeline and Agricultural notes must be added to the plan.
31. Surveyor to certify that iron rods have been set at all property corners.
32. Payment of all fees.

The following comment submitted by the Conservation Board:

Canine Case Squad/Forst – None submitted.

The following comment submitted by the ARB:

Canine Case Squad/Forst – None submitted.

Karen Emmerich: I am just here tonight to be asked to be set for a public hearing.

Mr. Astorino: Ok. Ted, let's do SEQR for the record.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: It is an Unlisted Action. The Planning Board has been reviewing the short EAF for the project.

Mr. Astorino: Thank you. We will list Comment #2 through Comment #32 for the record. This application is in front of the ZBA. We could set them for a public hearing at the next available agenda.

Mr. Bollenbach: Has the variance been granted?

Mr. Astorino: No. It was held over.

Connie Sardo: What happened was they were on the 10/27/14 ZBA Meeting. They were waiting to hear from Orange County Planning. I called OCPL to see if they had any comments for the ZBA. They told me that they have 30 days to review. They only had the application for a week.

Mr. Astorino: Which they do have that time.

Connie Sardo: This application is on the next ZBA meeting which will be on 11/24/14.

Mr. Astorino: We could set this application for a public hearing at the next available agenda.

Mr. McConnell makes a motion to set the Canine Case Squad/Forst Site Plan & Special Use Permit Application for a Public Hearing at the next available agenda.

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

Karen Emmerich: Thank you.

Comment #2: Applicant to discuss project.

Comment #3: Conservation Board – pending comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – pending submittal

Comment #6: TW Building Department – 08/28/14 valid open permit for renovations to a pole barn

Comment #7: TW ZBA – This proposed application will require variances: §164-40.N(P) a kennel requires 10 acres where 2.6 are provided, lot depth (200' required-134.38' and 94.90' are proposed), front setback (100' required-54.4' and 52.5' are proposed, yards to special areas (100-ft required, 54.4' and 52.5' are proposed) ; §164-46.J(2) requires a 300-ft setback for a dog kennel, runway, or exercise pen; §164-46.J(102) distance between buildings is 30-ft

Comment #8: If ZBA approval is granted, the complete ZBA language must be shown on the drawing.

Comment #9: The bulk table should be updated for the proposed use of a kennel: §164-46.M Business Use 35 Dog Kennels, §164-46.N Use Group “p.”

Comment #10: The existing septic system location should be shown on the site plan.

Comment #11: Applicant to clarify if the existing well and septic services both the home and barn.

Comment #12: Sheet 1, Notes 8 & 9 state that there is an existing and proposed well and septic system; the proposed information should be added to the plan.

Comment #13: The surrounding tax lot number and the N/F information should be shown on the plan.

Comment #14: The ridgeline and agricultural notes must be added to the plan.

Comment #15: If no stormwater plan is included, a note must be added to the plans stating that there will be no ground disturbance.

Comment #16: There is an existing fence shown; applicant to clarify the purpose of this fence, including what dogs are proposed to use this fence.

Comment #17: The purpose of the two sheds and pen on the property should be shown.

Comment #18: Applicant to clarify where the dog training will take place (indoors or outdoors); add a note to the plan.

Comment #19: Application to clarify if there is a maximum number of dogs that will be trained at the facility at any given time; add a note to the plan.

Comment #20: Applicant to clarify what the training will include (e.g., will the dog owners also be onsite for the training).

Comment #21: Applicant to clarify if the dogs will spend the night at the Canine Case Squad.

Comment #22: Parking calculations, including required and proposed parking spaces, must be shown on the plan.

Comment #23: Traffic flow patterns and the design of any loading areas, including truck turning movements, must be shown on the plans.

Comment #24: A landscaping plan, including a planting schedule and notes assuring replacement of plantings that do not survive three years must be shown on the plan.

Comment #25: Show the location, design, and construction materials for all existing and proposed walkways, ramps, outdoor storage/display areas, and retaining walls/fences.

Comment #26: Show the location, height, size, materials of construction, design, and illumination of all existing and proposed signs, as required in §164-43.1.

Comment #27: Show the location, type, and screening details for solid waste disposal facilities and containers.

Comment #28: The plans should estimate noise generation or include a note that states compliance with the Town's Performance Standards (§164-48).

Comment #29: 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." Completed: Sheet 1, Note 13.

Comment #30: The declaration information for the Ridgeline and Agricultural notes must be added to the plan.

Comment #31: Surveyor to certify that iron rods have been set at all property corners.

Comment #32: Payment of all fees.

Sayed Shah Building #2

Application for Site Plan Approval and Special Use Permit for the construction and use of conversion of an existing one-family dwelling to a two-family dwelling and 5 one-story commercial spaces previously known as an onion packing facility, situated on tax parcel S 3 B 1 L 44; project located on the southwestern side of County Route 1 (827 County Route 1), in the LB zone, of the Town of Warwick.

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

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – pending comments
4. Architectural Review Board – pending comments
5. OC Planning Department – pending submittal
6. OCDPW – pending submittal
7. TW Building Department – open permit for removal of three underground storage tanks
8. TW ZBA – 10/22/12 variance granted to allow the conversion from a one-family dwelling to a two-family dwelling (expires 10/22/14).
9. Complete ZBA language must be shown on the drawing.
10. Confirm that current plan is in compliance with the ZBA requirements shown in their approval.
11. The 911 address request form must be resubmitted with a site plan showing the location of all proposed uses.
12. Service Capacity letters must be submitted to highway, police, ambulance, fire, and school.
13. A north arrow should be added to the plan.
14. The total acreage of the lot must be added to the plan.
15. The approval box must be added to the plan.
16. If no stormwater plan is included, a note must be added to the plans stating that there will be no ground disturbance.
17. Property owners within 300-ft of the property must be shown on the plan.
18. Parking calculations, including required and proposed parking spaces, must be shown on the plan.
19. Traffic flow patterns and the design of any loading areas, including truck turning movements, must be shown on the plans.
20. A landscaping plan, including a planting schedule and notes assuring replacement of plantings that do not survive three years must be shown on the plan.
21. Show the location, design, and construction materials for all existing and proposed walkways, ramps, outdoor storage/display areas, and retaining walls/fences.
22. Show the location, height, size, materials of construction, design, and illumination of all existing and proposed signs, as required in §164-43.1.
23. Add a lighting note to the plan: All outdoor lighting shall be designed, located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in §164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures.

24. Add a signage note to the plan: Signs shall be not erected until a sign permit has been submitted and approved by the Town of Warwick Building Department in accordance with §164-43.1 of the Town Code.
25. Show the location, type, and screening details for solid waste disposal facilities and containers.
26. The plans should estimate noise generation or include a note that states compliance with the Town's Performance Standards (§164-48).
27. The estimated number of employees must be shown on the plan.
28. If the entire building or portions of the building have modern water-saving devices, a note shall be added to the plan.
29. The septic system and well locations are not shown on the plan.
30. The plans must be signed/sealed by the Professional Engineer from the State of New York.
31. The plans must be signed/sealed by the Licensed Surveyor from the State of New York.
32. The appropriate Town of Warwick Standard Notes must be added to the plan (Overlay Districts (Ag, TN-O), Signature Block, Utilities, Limits of Disturbance, Lighting, Agricultural Notes, Sign Note, and OCPDW Note).
33. The setback for the location of the residential portion of the large building is not adequate, but since the building was constructed before 1973, the setback requirement is grandfathered.
34. The setbacks for the existing shed and existing garage are not adequate; the applicant can obtain a variance from the ZBA, prove that they were constructed before 1973, or remove the structures.
35. The lot coverage and building heights should be shown in the bulk table.
36. There appear to be portions of the parking area that overlap onto the adjacent lot (3-1-43). Applicant to determine how this will be managed if the two lots have two different owners in the future (shared parking/ easement).
37. There appears to be a shared driveway between this lot (3-1-44) and an adjacent lot (3-1-46); applicant to clarify mechanism to share this driveway.
38. 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."
39. The Applicant shall show the 911 address on Sheet 1 of the drawing set.
40. The declaration information for the Agricultural Notes must be added to the plan.
41. A three-ring binder with all color, texture, roofing samples, etc. shall be submitted and retained with the building department after final approval has been granted.
42. Payment of all bonds (Landscaping, Performance, Marginal Access Road, Construction Trailer Removal, Construction Inspection fees for Landscaping and Performance, and Traffic Mitigation Fees).
43. Surveyor to certify that iron rods have been set at all property corners.
44. Payment of all fees.

The following comment submitted by the Conservation Board:

Sayed Shah Building #2 – None submitted.

The following comment submitted by the ARB:

Sayed Shah Building #2 – None submitted.

Karen Emmerich: We are here tonight requesting to be set for a public hearing.

Mr. Astorino: Ok. Ted, could you please address SEQR?

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: Yes. It is Unlisted Action. There were only a couple of questions that I had regarding SEQR.

Karen Emmerich: I am not sure if I can answer that tonight.

Mr. Fink: I will contact you and we can go over the EAF. The EAF needs to be corrected.

Karen Emmerich: Ok.

Mr. Astorino: We will list Comment 2 through Comment 44 for the record. We could set this application for a public hearing at the next available agenda.

Mr. McConnell makes a motion to set the Sayed Shah Building #2 Site Plan & Special Use Permit Application for a Public Hearing at the next available agenda.

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

Mr. Astorino: This application is also before the ZBA currently.

Connie Sardo: It is the same story like the previous application Canine Case Squad. The ZBA is waiting to hear from Orange County Planning.

Mr. Astorino: Ok.

Karen Emmerich: Thank you.

Comment #2: Applicant to discuss project.

Comment #3: Conservation Board – pending comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – pending submittal

Comment #6: OCDPW – pending submittal

Comment #7: TW Building Department – open permit for removal of three underground storage tanks

Comment #8: TW ZBA – 10/22/12 variance granted to allow the conversion from a one-family dwelling to a two-family dwelling (expires 10/22/14).

Comment #9: Complete ZBA language must be shown on the drawing.

Comment #10: Confirm that current plan is in compliance with the ZBA requirements shown in their approval.

Comment #11: The 911 address request form must be resubmitted with a site plan showing the location of all proposed uses.

Comment #12: Service Capacity letters must be submitted to highway, police, ambulance, fire, and school.

Comment #13: A north arrow should be added to the plan.

Comment #14: The total acreage of the lot must be added to the plan.

Comment #15: The approval box must be added to the plan.

Comment #16: If no stormwater plan is included, a note must be added to the plans stating that there will be no ground disturbance.

Comment #17: Property owners within 300-ft of the property must be shown on the plan.

Comment #18: Parking calculations, including required and proposed parking spaces, must be shown on the plan.

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Comment #24: Add a signage note to the plan: Signs shall be not erected until a sign permit has been submitted and approved by the Town of Warwick Building Department in accordance with §164-43.1 of the Town Code.

Comment #25: Show the location, type, and screening details for solid waste disposal facilities and containers.

Comment #26: The plans should estimate noise generation or include a note that states compliance with the Town's Performance Standards (§164-48).

Comment #27: The estimated number of employees must be shown on the plan.

Comment #28: If the entire building or portions of the building have modern water-saving devices, a note shall be added to the plan.

Comment #29: The septic system and well locations are not shown on the plan.

Comment #30: The plans must be signed/sealed by the Professional Engineer from the State of New York.

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Comment #33: The setback for the location of the residential portion of the large building is not adequate, but since the building was constructed before 1973, the setback requirement is grandfathered.

Comment #34: The setbacks for the existing shed and existing garage are not adequate; the applicant can obtain a variance from the ZBA, prove that they were constructed before 1973, or remove the structures.

Comment #35: The lot coverage and building heights should be shown in the bulk table.

Comment #36: There appear to be portions of the parking area that overlap onto the adjacent lot (3-1-43). Applicant to determine how this will be managed if the two lots have two different owners in the future (shared parking/ easement).

Comment #37: There appears to be a shared driveway between this lot (3-1-44) and an adjacent lot (3-1-46); applicant to clarify mechanism to share this driveway.

Comment #38: 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."

Comment #39: The Applicant shall show the 911 address on Sheet 1 of the drawing set.

Comment #40: The declaration information for the Agricultural Notes must be added to the plan.

Comment #41: A three-ring binder with all color, texture, roofing samples, etc. shall be submitted and retained with the building department after final approval has been granted.

Comment #42: Payment of all bonds (Landscaping, Performance, Marginal Access Road, Construction Trailer Removal, Construction Inspection fees for Landscaping and Performance, and Traffic Mitigation Fees).

Comment #43: Surveyor to certify that iron rods have been set at all property corners.

Comment #44: Payment of all fees.

Other Considerations:

1. **Wheeler Road Estates** – Letter from Anthony Trochiano, P&P Engineering, dated 10/3/14 addressed to the Planning Board in regards to Wheeler Road Estates – requesting 18th 6-Month Extension on Preliminary Approval of a proposed 31-Lot subdivision, situated on tax parcel SBL # 8-2-44.223; parcel located along the northerly side of Wheeler Road (C.R. 41) at the intersection with Dussenbury Drive, in the SL zone, of the Town of Warwick. Preliminary Approval was granted on 11/2/05. *The applicant has stated that they are working to resolve outstanding SEQRA items.* The 18th 6-Month Extension becomes effective on, 11/2/14.

Mr. Kennedy makes a motion on the Wheeler Road Estates application, granting an 18th 6-Month Extension on Preliminary Approval of a proposed 32-Lot cluster subdivision, SBL # 8-2-44.223. Preliminary Approval was granted on, 11/2/05.

The 18th 6-Month Extension becomes effective on, 11/2/14.

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

2. **Round Hill Subdivision** – Letter from Steven Spiegel, Esq., dated 10/14/14 addressed to the Planning Board in regards to the Round Hill Subdivision – requesting **8th Re-Approval** of Final Approval of a proposed 19-Lot + 1-Ag Lot Cluster subdivision, situated on tax parcel SBL # 7-2-51.1; parcel located along the northerly side of Wheeler Road between Meadow Road and Hunt Drive, in the RU zone, of the Town of Warwick. Conditional Final Approval was granted on 10/18/06. *The applicant has stated that the Re-Approval is needed because of the condition of final approval requiring construction of roads and significant infrastructure, which real estate market and financial conditions do not permit at this time.* The 8th Re-Approval of Final Approval becomes effective on 10/18/14, subject to the conditions of final approval granted on 10/18/06.

Mr. Kennedy makes a motion on the Round Hill Subdivision application, granting **8th Re-Approval** of Final Approval of a proposed 19-Lot + 1-Ag Lot cluster subdivision, entitled, **“Round Hill Subdivision”**, formerly Wheeler Estates, located on tax parcel S 7 B 2 L 51.1; parcel located along the northerly side of Wheeler Road between Meadow Road and Hunt Drive, 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, 10/18/06.

The 8th Re-Approval of Final Approval becomes effective on, 10/18/14, subject to the conditions of Final Approval granted on, 10/18/06.

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

3. **Doss/McMahon Lot Line Change** – Letter from Christopher Gurda, Esq., dated 10/16/14 addressed to the Planning Board in regards to the Doss/McMahon Lot Line Change – requesting a 6-Month Extension on Final Approval of a proposed lot line change, situated on tax parcels SBL # 58-2-1.21 & SBL # 47-1-18.2; parcels located on the eastern side of Nelson Road 1600± feet south of Oak Hill Road, in the MT zone, of the Town of Warwick. Conditional Final Approval was granted on 5/7/14. *The applicant has stated that they are still working on satisfying the conditions of final approval.* The 6-Month Extension becomes effective on 11/7/14.

Mr. McConnell: Mr. Chairman, do you recall the conditions?

Mr. Astorino: If I remember correctly, this was the one having issues with their neighbor. There were encroachment issues.

Mr. Showalter: Yes.

Mr. Astorino: There were issues with the hot tub and a pool. There were numerous issues.

Mr. Bollenbach: There were many issues but the conditions were minimal.

Mr. McConnell: Yes. It is just a lot line change.

Connie Sardo: Their attorney was confused.

Mr. Bollenbach: Maybe the Board would like to have the applicant come in and explain it.

Mr. Astorino: That would be up to the Board. This is their first 6-Month Extension that they are requesting.

Mr. McConnell: We might not have our next meeting in November.

Mr. Astorino: The way it looks, we might not.

Mr. McConnell: Let's not get ahead of ourselves here. It strikes me as odd about this.

Mr. Bollenbach: I will give the attorney a call.

Mr. Astorino: Let us give them the extension this time. If this comes up again, then I agree with you.

Mr. Bollenbach: Yes. I will give the attorney a call. Let's give them the extension this time.

Mr. McConnell: It just doesn't meet the usual situation where there is adequate explanations.

Mr. Astorino: I agree with you.

Mr. Kennedy makes a motion on the Doss/McMahon Lot Line Change application, granting granted a 6-Month Extension (Vote 5-0-0) on Final Approval of a proposed Lot Line Change. SBL # 58-2-1.21 & 47-1-18.2. Conditional Final Approval was granted on 5/7/14.

The 6-Month Extension becomes effective on 11/7/14.

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

4. Planning Board Minutes of 10/1/14 for PB Approval.

Mr. Kennedy makes a motion to Approve the Planning Board Minutes of 10/1/14.

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

5. Planning Board to discuss cancelling the 11/10/14 Work Session & 11/19/14 Planning Board Meeting.

Mr. McConnell makes a motion to cancel the 11/10/14 Work Session & 11/19/14 Planning Board Meeting.

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

6. **Meadowbrook Preserve** – Letter from Jay Myrow, Esq., dated 10/27/14 regarding subdivision abandonment authorizing Chairman, Benjamin Astorino to sign agreement terminating all of the approval documents.

Mr. Showalter: Where was Meadowbrook Preserve?

Mr. Astorino: That was the Nop Farm

Mr. Showalter: Yes.

Mr. Bollenbach: That was Bing Nop's subdivision that had 35 Lots that received conditional final approval. It has since been purchased. The current owner wants to disband the subdivision approval and terminate all of the agreements. There were declarations and easements. The Town Board has already terminated the Drainage District. There was a Drainage District and drainage easements that were formed and put in place. They are terminating all of those agreements. This just authorizes the Planning Board Chairman to sign that document.

Mr. Astorino: Ok.

Mr. Kennedy makes a motion for the Planning Board Chairman, Benjamin Astorino to sign agreement terminating all of the approval documents.

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

Mr. McConnell: Regarding Meadow Brook Preserve, the letter from Jay Myrow is in what capacity? Is he as the Town's Attorney?

Mr. Bollenbach: No. That was the former attorney to the subdivision.

Mr. Astorino: That was Nop's attorney.

Mr. McConnell: Ok. Thank you. I just wanted to understand that.

Mr. Astorino: Ok.

Correspondences:

1. Letter and Resolution from Frank Simeone, Esq., dated 10/6/14 addressed to the Planning Board in regards to the Pine Island Fire District.
2. Letter from Christopher Fisher, Cuddy & Feder, dated 10/8/14 addressed to Joseph Martens, NYSDEC in regards to the Pine Island Fire District.
3. Letter from Frank Simeone, Esq., dated 10/8/14 addressed to Joseph Martens, NYSDEC in regards to the Pine Island Fire District.
4. Letter to Commissioner Gurda, Pine Island Fire District, dated 10/14/14 from Ben Astorino, Planning Board Chairman in regards to the proposed cell tower.

Mr. Astorino: That was a letter sent saying that we received their Resolution that we reviewed and we will review it.

5. Email from Lawrence H. Weintraub, NYSDEC, dated 10/28/14 addressed to PB Chairman, Benjamin Astorino – in regards to Lead Agency dispute: Town of Warwick PB v. Pine Island Fire District.

Mr. Astorino: That was a question that Mr. Weintraub asked. He asked for some additional information. We provided that to him in a short email.

6. Email from PB Chairman, Benjamin Astorino, dated 10/30/14 addressed to Lawrence H. Weintraub, NYSDEC – in regards to Lead Agency dispute: Town of Warwick PB v. Pine Island Fire District.

Mr. Astorino: That was the letter that we sent back.

Mr. Bollenbach: That is because we still contest Lead Agency.

Mr. Astorino: Exactly. And, we don't agree with them with the Monroe Test.

7. Email Letter from Christopher Fisher, Cuddy & Feder, dated 10/31/14 addressed to Lawrence H. Weintraub, NYSDEC – in regards to PI Fire Replacement Tower Project.

Mr. Astorino: That was because when we emailed the DEC, we requested the email to Frank Simeone and Cuddy & Feder. That was their response to our response.

8. Draft Letter to Michael Sweeton, Supervisor & Town Board, dated 11/5/14 from Planning Board – in regards to PI Fire and AT&T tower Balancing of Public Interest Test Analysis.

Mr. Astorino: I will read that letter for the record. The Letter to Michael Sweeton, Supervisor and Town Board, dated 11/5/14 is as follows:

November 5, 2014

Michael P. Sweeton, Supervisor
Town of Warwick Town Board
132 Kings Highway
Warwick, New York 10990

Re: Pine Island Fire District and AT&T Telecommunications Tower
Balancing of Public Interest Test Analysis

Dear Supervisor Sweeton and Members of the Town Board,

The Town of Warwick Planning Board has received and reviewed a copy of the Pine Island Fire District's Resolution dated September 30, 2014, which included the Board of Fire Commissioner's "balancing of public interests" analysis. The Board of Fire Commissioner's analysis determined that the Pine Island Fire District is "...immune from all of the Town of Warwick's local land use regulations." The consensus of the Planning Board was that they do not agree with the District's analysis.

For the Town of Warwick Planning Board,

Benjamin Astorino
Town of Warwick Planning Board Chairman

Mr. Astorino: Do we have a consensus from the Planning Board?

Mr. McConnell: Yes.

Mr. Kennedy: Yes.

Mr. Showalter: Yes.

Ms. Little: Yes.

Mr. Astorino: Ok. We have a full consensus from the Planning Board. We will send this letter to the Town Board. It will let them know our feeling on that. Do any Board Members or Professionals have anything else? We have no other comments from the Board.

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.

Rachel Tetreault: What happens next?

Mr. Astorino: Right now, the DEC is reviewing our case. They did request some additional information from us. We sent that back by email format. They asked us to copy the Fire Department's professionals also. With that, they responded back. We have all of the letters listed here. You can FOIL the letters with Connie. As far as the Planning Board is concerned, we pretty much reviewed everything that could be reviewed at this point. We reviewed the "balancing of public interests". We do not agree with it as you have just heard. We will send the letter to the Town Board. The Town Board will be the body if something has to be done. John, is that correct?

Mr. Bollenbach: Yes.

Mr. Astorino: It would be the Town Board not this Board or the residents. That is not our call. We are now waiting for the DEC to make a decision. If they request more information from us, we would be gladly to give it to them.

Rachel Tetreault: Ok.

Mr. McConnell: There are two things going on. One is the DEC is going to make a determination as to who the appropriate party to be the Lead Agency for the SEQR review. The second thing is the balancing test that you have heard us refer to is the Pine Island Fire District making a claim that they are not subject to the zoning in Warwick. That is then the Town Board not the Planning Board of that. There are two different issues that are running on parallel tracks.

Rachael Tetreault: Who will do the balancing of public interest? Would it be the Planning Board or the Town Board?

Mr. McConnell: The Pine Island Fire District had done that.

Rachael Tetreault: Right.

Mr. McConnell: They provided that to us. John correct me if I am wrong. Now it is up to the Town Board to decide whether to accept or reject that. That would be their decision.

Mr. Bollenbach: Correct.

Rachel Tetreault: What I don't understand is that your letter to the DEC was requested that you be Lead Agency. You weren't really asking them to do the balancing of interest.

Mr. Astorino: The DEC has no interest essentially in deciding the Monroe Test. It is very confusing. Ted, I am going to throw this to you. There are three criteria. The DEC doesn't essentially care about the Monroe balancing of interest test. That is an intergovernmental. They are looking at the SEQR end of it which is Lead Agency.

Mr. Fink: They are not going to intercede in a local land dispute. That is not what they are charged with under the SEQR Regulations. The DEC Commissioner is charged with one task. That task has to do with Lead Agency determination. That is to look at three criteria that are in the State Regulations for SEQR. One of the impacts of the action, are they local, regional, or state wide? That is the first criteria. The second criteria is which agency has the greatest capability of the SEQR review process. The third criteria is similar. It is what agency has the broadest authority for Lead Agency? That is all the DEC would look at. The Planning Board has made it plain that they feel conducting the SEQR review process the Planning Board is better equipped to able to do the SEQR review process. That doesn't really get into that parallel track that Dennis was just talking about. The balance of interest test is something for the Town Board to decide.

Rachel Tetreault: The Town, if they choose to reject the Commissioners, they would do it themselves?

Mr. McConnell: Sounds right.

Mr. Astorino: Is there anyone else wishing to address any of the agenda items?

Jerry Zimmerman: I am lost in this thing. The issue of Lead Agency is still waiting to be resolved with the DEC.

Mr. Astorino: Yes.

Jerry Zimmerman: You are now handing this football over to the Town Board regarding the judgment of the Pine Island Monroe nine.

Mr. Astorino: We don't have the authority to challenge that.

Jerry Zimmerman: I understand that. What if the DEC in fact grants the Planning Board Lead Agency? What happens then?

Mr. Bollenbach: It would then be for the Pine Island Fire District to determine if they would want to continue to pursue the application and make an application to the Planning Board.

Jerry Zimmerman: Ok. How long would they have to do that?

Mr. Bollenbach: They could never do it. There is no time limit.

Mr. Astorino: If we are designated Lead Agency, they would have to come before us.

Jerry Zimmerman: What happens if the Town Board reads your letter and for whatever reason the Town Board decides not to reject the Pine Island?

Mr. Bollenbach: We are not going to speculate on that.

Mr. Astorino: That is a question that you would have to ask the Town Board. I am not going to speak on behalf of the Town Board. I can't answer that.

Jerry Zimmerman: I understand that. I am just wondering from a legal standpoint. It is really hard to follow the breadcrumbs here.

Mr. Astorino: From the Planning Board's perspective, we contested Lead Agency. That is the bottom line. We sent them all of the information. The question you just asked us has to be brought up to the Town Board. We as the Planning Board cannot answer for the Town Board.

Jerry Zimmerman: It seems like there are two parallel tracks here.

Mr. Astorino: Dennis just pointed that out.

Jerry Zimmerman: Thank you.

Mr. Astorino: Is there anyone else wishing to address any of the agenda items? Let the record show no further public comment.

Mr. McConnell makes a motion to adjourn the November 5, 2014 Planning Board Meeting.

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