

January 21, 2010

The Town Board of the Town of Warwick held a Public Hearing for Amendments Proposed to the Town of Warwick Zoning Law and Development Fees Local Law. Said public hearing was held on Thursday, January 21, 2010 at the Town Hall, 132 Kings Highway, Town of Warwick. Supervisor Sweeton opened the public hearing at 7:00 p.m.

ATTENDANCE: Supervisor Michael Sweeton
Councilman Floyd DeAngelo
Councilman Leonard DeBuck
Councilman James Gerstner
Councilman Mickey Shuback

Town Attorney, John Hicks

LEGAL NOTICE: The Clerk read the legal notice, which was duly published in the Warwick Valley Dispatch on January 6, 2010. (Copy of this legal notice is printed at the end of these minutes.)

CORRESPONDENCE:

ZENON C. WOJCIK – Resident, Village of Florida, NY 10921 – Letter to the Supervisor and Town Board regarding the zoning amendments.

Supervisor Sweeton – For historical background the Town had revised its Comprehensive Plan in 2008. It needed revisions based on those updates. The Town Board had met in work sessions throughout part of 08 and 09 to come up with revisions to the various sections of the zoning code that would bring the zoning code into compliance with the revisions to the Comprehensive Plan. We did declare ourselves lead agency at our last meeting and we did prepare a full environmental assessment form and I'll give you the highlights of the changes and then we'll open it up to the floor for comment. The proposed changes, there's an addition of a biodiversity conservation overlay district and we have several overlay zones already. That's a map of the biodiversity area that was mapped out in a study that was done jointly with Chester and Goshen several years ago by the Metropolitan Conservation Alliance, called the Wallkill Biodiversity Study. Our Planning Board is using that in review of different subdivisions and by having that overlay zone it brings a little bit more critical eye to the habitat on the site, making sure that critical habit is preserved and linked with other open space, it's a benefit in that respect. New regulations were added to establish minimum requirements for the control of storm water runoff, soil erosion and sedimentation, the surface waters to protect and safeguard the general health, safety and welfare of residents whenever there's a subdivision going to be done. They are based on the New York State DEC local storm water management and erosion control law. A number of corrections and clarifications are also being made to the Towns existing sign and lighting ordinance. These changes were recommended in the update to the plan based on the seven years of experience with the planning application. We found this new sign

ordinance that was adopted in 2002 to be a bit restrictive in many instances, so we made that a little bit more liberalized in terms of the sizes and things. The lighting; there were some minor changes to the lighting. The biggest change would be in the cluster subdivision regulations of the code. It's been a very successful process, the cluster subdivision process. Historically the way it was setup in 2002 you had to preserve 50% of the site as open space. We found routinely during the planning process that sites were preserving up to 65-70% fairly easily and so we've actually given some more options to cluster, but all of them include additional benefits to the Town in order to get the full clustering density benefit. The ultimate density didn't change, but if the applicant doesn't meet several additional criteria they can't get to the full amount of the bonus. The other addition was currently in our LB Zone, which is our local business hamlet zones, two story buildings are permitted. In the zone you can only have one accessory apartment, so buildings in those zones, whether they be renovated or built new, if they built a three or four thousand square foot building the second floor could have an accessory apartment, but it would be a three or four thousand square foot apartment, which really was not a feasible thing that didn't go to the intent of the LB Zone which was to encourage live/work units and more smaller units. There's a provision in there to allow one bedroom apartments of a smaller size on the second story in the LB Zone. I think that was the major highlights of it. The changes tonight, the hearing tonight has nothing to do with Route 94. That is being considered as a whole other entity and that is still waiting the completion of the environmental impact statement for that. The other point of interest is we have referred this to the County for their review as required by General Municipal Law 239 and we also referred it to the Planning Board. We by our own code are not able to take action until we have response from the Planning Board or 60 days which ever comes first and if we expect comment from them we would enter it into the public record, so we'll await their comments. This hearing will stay adjourned until our next meeting in February which is the 4th.

Zen Wojcik – Resident, Village of Florida, NY 10921 – The Biodiversity Conservation Overlay District is an excellent idea and I'm glad to see it coming in there. There is one other thing that I'm a little concerned about and that's the habitat assessment. It is a requirement for all subdivisions, all site plans and all special use permits. We have very good reports, biodiversity reports prepared by Metropolitan Conservation Alliance who put together a pretty good map. It occurs to me for minor subdivisions 2 to 4 lot subdivisions that are in the areas that are without argument that are within the biodiversity area. Why can't the Town say, "Well here's the regulation you don't have to go out and spend \$1,000, \$2,000, \$3,000 or what ever it's going to be for a habitat assessment? Put in a rain garden, limit the amount of disturbance to the land for clearing for the house, septic field and driveway and also make a limitation of 0.10 of an acre maximum clearance for land clearing of those areas. The Town already has 0.25 acres maximum clearing in the ridgeline overlay district because that is important to preservation conserving. With putting an additional overlay on now with the biodiversity makes sense to me and this would limit the amount of investment that people would have to add that they are probably not going to get back. If you are making a two lot subdivision

you're not going to get back an awful lot if you sell that lot, more than likely it's going to be for a relative, friend or child. Somebody who puts 25 lots together is going to make some money on it, but it seems to me a reasonable thing to do. In the way that the regulation is written it's only talking about new subdivisions, new site plans and new special use permits, again looking at the ridgeline overlay as an example all the properties that are within the ridgeline overlay are covered by the regulations of the ridgeline overlay, so if you have an empty lot in the ridgeline and want to put up a new house you have certain height restrictions, you have to have certain colors for the house there's a chart in the building department. Similarly if the Board decides to have restrictions about a 0.10 of an acre clearing or to have the rain garden restriction for any new houses that are built on existing lots within this overlay district they could also be covered by that. Little critters and habitat they don't care if it's subdivided today or 10 or 20 years ago they're still there and the point of the regulation is for preservation. Stormwater Management regulation is a wonderful thing for the Town to have. I am glad to see that the Town has decided that it's going to regulate disturbances of an acre or more to give an additional backing to the State regulation. There was a document that was done 3 years ago by a soil and water conservation called the Wallkill River Watershed Conservation Management Plan that looked into ways to preserving and helping out water quality and restricting water quantity going into the southern Wallkill watershed. This is the largest watershed in the Town of Warwick and they make good recommendations as particularly importance to the black dirt region where a few years ago we had bad flooding going on in the spring time. We had farmers come to the Planning Board asking what they were doing to prevent us from flooding out. Some of the recommendations were pretty good, but I really didn't see them incorporated into the stormwater management regulations where it's a good place for them to be. There are no specific requirements in the proposed stormwater management regulations to follow low impact design or better site design and it's something that the Town is pushing and it's a good place to put that in there to say if you're going to submit something to the Town you have to prove that you're doing an LID. That you're trying to take care of all your stormwater on the site, that your not going to cause down stream problems, so we're not going to have flooding going on in the black dirt or we're going to be restricting it at least and again, not just for subdivisions and site plans but for existing lots. It's not going to be the 25 lot subdivision that's going to kill us. It's going to be the 25 lots that are out there that haven't been built on yet and that will be built on in the next 10 years. The last thing that I wanted to say and it wasn't in there. You were talking about preservation and different things and this is part of the update to the code preservation of habitat, preservation of open space and all that. I'm a resident of the Village of Florida and I'm concerned about my water supply and I don't see anything in the Town Code that specifically helps out preservation of lands around Glenmere Lake. There's the designated protection area, which is a 100' buffer away from the lake, Hillman Lake and away from the streams that go into it. That's really no different that preserving Taylor Creek or the Wawayanda or any of the other creeks that are in Town or Rolling Lake or any of these other lakes. This is a water supply. I think the Town should look for water supply in the Villages at a

different light and provide a little bit more preservation and a little bit more protection. It's not in this current proposal that's before the Town right now and I'm just asking that you guys consider that some time in the future. Thank you.

Supervisor Sweeton – Thank you and thanks for the input.

Phyllis Briller – Resident, Town of Warwick, NY 10990 – I confess I haven't read all of the amendments, but it's going to be open for a while.

Supervisor Sweeton – The hearing will be open until the 4th, so comment until then is appropriate.

Phyllis Briller – Some things that I did not see in what I did review and you'll forgive me if it's already in there and there are three items. The first item is the community should be notified when an applicant is filing their application in general. I think at least the Bellvale community during some activity we had a few years ago was in complete agreement that we should not be notified for the first time when a public hearing is scheduled, because by then the i's are dotted and the t's are crossed. I know the Town has already taken some steps toward that. The applications are filed and notified on the Town's website and that's good, but everybody doesn't know to check the Town website. They wouldn't necessarily have any reason to know if an application had been filed and as a result many and I do attend some of the Planning Board meetings and several times individuals come and say, we had no idea, we just got this in the mail yesterday or the day before. In my opinion it's an inappropriate way to notify the community. The Planning Board I understand is encouraging applicants to notify neighbors when there filing an application, but that's not enough and it needs to be changed. The second item, again because there is notification I believe five days mailing prior to a public hearing many times the individuals don't get the information or don't get it in a timely basis and can't bring themselves up to speed. There is no reason if the applicant can file a notification in a newspaper 10 days before there is no reason in my opinion that the applicant can't also send out the notification to the surrounding community 10 days before, so that individuals have half a chance of knowing what's going on. The yield plan in a clustered subdivision in the past has always been submitted prior to the subdivision plan. Hopefully with the new bonus points this will change and there will be less cost and less involvement in having to determine a yield plan, but right now that yield plan is approved by consensus by the Planning Board before it ever gets to a public hearing. As a result of the public coming to that public hearing they have no input on the processes that were undergone or the decisions that were made as a result of the information submitted on the yield plan. This yield plan can be incorrect. The community may well have better knowledge of what's going on, on that site then perhaps does the Planning Board or perhaps as a result of the information that has been disclosed or not disclosed by the applicant. The public should have input and I believe there would be what I consider less abuses on an application if public has an input on that yield plan. With respect to that yield plan the applicant is required to show two means of access to the property

and it's my contention and I think I would find others who agree with me that the two means of access or however many accesses are shown on that yield plan should be required to be constructed by the applicant. There are in my opinion and from my observation too many times when the applicant has said, oh we have two means of access it's over here and over there and in fact they are never required to show that they are meaningful means of access. I understand from urban design perspective that the second means of access isn't appropriate given the finale configuration of lots, but I think they could be required to construct them even if that second means of access is by virtue of an easement and is used for emergency vehicles only. That would require the applicant to ensure the two means of access are actually physically viable and financially viable. As I said there have been some abuses and I have been monitoring the Planning Board since 2002 and I think that would stop some of the situations that are currently going on. I have a whole bunch of comments about miscellaneous stuff that I can cover in written context to you. I liked the idea of granting the bonus points as I read it made sense, but what I did not understand on the tables I realize we're going through various kinds of areas within the Town and the zoning density varies by that, but then the last column where we'll say it's 4-6 it's the acreage that would be the available density per something and that's what I couldn't get.

Supervisor Sweeton – Dwelling unit.

Phyllis Briller – Ok, then let me ask my question differently. If there are six options and I know I have to apply from anywhere from two to four of these six options to get the density zoning I'm not getting more density as a result of complying with more bonuses.

Supervisor Sweeton – No. The way its set up there are six options you need the minimum of two and you can have all six, but to get the maximum benefit you need four of those six.

Phyllis Briller – But I get no more brownie points with all six.

Supervisor Sweeton – That's correct.

Phyllis Briller – That's what I needed to know.

ADJOURN PUBLIC HEARING: Motion Councilman DeAngelo, seconded Councilman Gerstner that the public hearing be adjourned until February 4, 2010.

Motion Carried (5 ayes, 0 nays) 7:30 p.m.

01-21-10 cp.

Marjorie Quackenbush, Town Clerk