

February 4, 2010

The Town Board of the Town of Warwick held a Continuation of a Public Hearing for the Amendments Proposed to the Town of Warwick Zoning Law and Development Fees Local Law. Said public hearing was held on Thursday, February 4, 2010 at the Town Hall, 132 Kings Highway, Town of Warwick. Supervisor Sweeton opened the public hearing at 7:30 p.m.

**ATTENDANCE:** Supervisor Michael Sweeton  
Councilman Floyd DeAngelo  
Councilman Leonard DeBuck - Absent  
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.)

Supervisor Sweeton – The proposed changes brought forth does not include any of the Route 94 corridor at all. It does include an overlay zone which we now have the official map up there on the board; it is the biodiversity overlay zone and there is a section of the code that deals with that. Just for the record we did get word from the Orange County Planning Department. They had some minor questions, but they did not see anything in it that they would not support and we'll have that in writing in a day or so. We also have a memo from the Warwick Planning Board and I will read it for the record. “The Planning Board is in receipt of your request for a recommendation concerning proposed Zoning Amendments dated December 29, 2009. The Planning Board has completed a review of the proposed Amendments and recommends that the Town Board adopt the amendments with two recommended modifications described below. In reaching this conclusion, the Planning Board conducted an analysis of the proposed amendments in accordance with the Zoning Law requirements of § 164.60.A(1) and (2) as stated below:

(a) Whether such change is consistent with the aims and principles embodied in this chapter to the particular districts concerned. The amendments largely apply Townwide and are appropriate given the experience of the Planning Board and Building Department on the review of numerous applications since the 2002 Zoning Law was enacted.

(b) Which areas and establishments in the Town will be directly affected by such change and in what way will they be affected. The Planning Board believes that the Zoning Amendments may have some effect on the adequacy of public school facilities or public services in the Town, but not to a significant extent for several reasons. The proposed amendments have the potential to increase density in the Town due to the allowance for a “Two-story Mixed-Use Building” in the Local

**Hamlet Business District.** Here, second floor one and two bedroom apartments could be created along with business and professional offices and live/work units. In particular, the two bedroom apartments have the potential for attracting families with school-age children. However, the LB District already allows One-family, Two-family and Accessory Dwelling units. The two bedroom apartments that would be possible in a Two-story Mixed-Use Building are limited to 25 percent of the dwelling units in the building, thereby appreciably limiting the number that could be developed, but the Planning Board requests the Town Board to consider whether a lesser percentage may be more appropriate. In any case, the LB District encompasses the smallest land area in the Town and many of the lots within this Zone are already developed. Moreover, the LB District along with the SL and SM Zoning Districts have already been targeted by the Comprehensive Plan and Zoning Law for potential higher densities due to their additional designation with the Traditional Neighborhood Overlay (TN-O) District. The Planning Board also acknowledges the need, expressed in the Comprehensive Plan and embodied in this proposed Zoning Amendment, for a diversity of housing options to be provided in the Town, especially for Warwick's workforce.

(c) The indirect effect of such change on other regulations. The proposed Zoning Amendments are not likely to have an indirect effect on other regulations.

(d) Whether such proposed amendment is consistent with and furthers the goals and objectives of the Town of Warwick Comprehensive Plan. The Planning Board believes that the proposed Amendments are consistent with the recommendations of the Town's 2008 Comprehensive Plan and will further the goals and objectives as envisaged by the 2008 Comprehensive Plan.

The Planning Board has reviewed the proposed Biodiversity Conservation Overlay (BC-O) District [as per § 164.60.A(2)] and believes that it is consistent with the Southern Wallkill Conservation Plan mapping. Since this map is proposed as an "overlay" to the existing Zoning Districts map, it will not change underlying land uses nor will it effect the growth of the Town. The Planning Board notes that adoption of the proposed BC-O District is consistent with the Comprehensive Plan's recommendations.

The Board identified two passages of the proposed Zoning Amendments text that we recommend be revised as follows:

Section 164-41.1.J(2)(a). In the first sentence of this paragraph, we recommend that the language be modified to remove the reference to "fallow field, or managed" in reference to a meadow.

Section 164-41.1.J(2)(g). At the end of the paragraph, we recommend that the following new language be added: "As part of the SEQR environmental review process of a golf course, the Planning Board, if acting as Lead Agency, shall consider the development and use of a comprehensive guidance document for the management of natural resources and environmental impacts associated with the golf course to minimize or avoid the effects of re-grading, removal of vegetation, loss of natural habitats and loss of animal species on the site. The natural resource management goals of such a guidance document would be to plan for:

Wildlife conservation and habitat enhancement; Waste reduction and management;

**Energy efficiency; Water conservation; Water quality management and monitoring; and Integrated pest management including an organic (i.e. no or low pesticide use) approach to golf course management.**

**In conclusion, the Planning Board has made a careful inquiry and determination in regards to the proposed Zoning Amendments. The Planning Board's recommendation to the Town Board is to adopt the Amendments with the changes suggested herein and it was passed by a vote of 4 to 1." Those changes, the changes for the referenced to the fallow managed meadow and the reference to the development of a golf course if it is to be permitted have been incorporated into the zoning that the Board is considering adopting. In addition to that we had last meeting a letter from a resident Zen Wojcik who made some observations and provided us with some food for thought, so I think we have incorporated one of his main points, which was minor subdivisions in the biodiversity overlay zone. You shouldn't have to go through an expensive process of a habitat assessment. They simply should be told to follow the procedures and guidelines of the habitat development in the biodiversity corridor. We have incorporated that into this and made reference to the appropriate technical publications for following that process. The changes on page 37 and it talks about under the section C. Applicability the section has been changed to say "Use of a habitat assessment process is mandatory for all major subdivisions with lands within the BC-O district. Use of a habitat assessment process is mandatory for all minor subdivisions with lands within the BC-O district that are proposed as conventional subdivisions." So in other words they're not clustering. Uses requiring site plan approval with lands within the biodiversity conservation overlay district and that meet or exceed any of the following conservation thresholds, so they will have to do it if they exceed these thresholds. 1. Will result a physical alteration in excess of one-quarter (1/4) acre per lot. 2. Will result in the physical alteration of lands within 100 feet of a classified stream, water body, or State or Federal protected wetland. 3. Will result in alteration of steep slope areas of 25 percent or greater. 4. Will result in the physical alteration of lands within an area identified by the New York Natural Heritage Program as habitat for a Species of Conservation Concern, defined as "Species of Greatest Conservation Need" developed for New York's Wildlife Action Plan by the New York State Department of Environmental Conservation for animals and for plants, the New York State list of endangered, threatened, rare and exploitably vulnerable plants or the New York State rare plant status lists, all available from website citations from the New York State DEC. The other comment we had at the last public hearing was from another resident, Mrs. Briller, who had talked about the early notification and my planner rightfully pointed out to me that requirement is in the subdivision regulations, so we will get those on the agenda to correct as well to incorporate the comments that were made in that remark. That's all that I have in terms of those changes. We'll open it again for any public comment on those proposed changes.**

**Phyllis Briller – Resident, Town of Warwick, NY 10990 – In the Town we have existing privately managed roadways, old roadways that at the time that they were approved were called private roads. Which today don't meet the standards of**

**private roadways that fall under the requirements of shared driveways for lack of some other requirement. It appears to me that in the existing regs there are no provisions for dealing with increased subdivisions that use those now considered private driveways or common driveways. In other words an open area subdivision, which they might have fallen under said that those roadways would be used for minor subdivisions that would be four houses or less. We're now faced if someone comes along and wants to develop using those there are no standards that say four is ok, but nothing more is allowed, or six which is being considered as the requirement for a shared driveway. In excess of six is not allowed and the excess amount of six is only noted in the cluster subdivision or in conservation density subdivision, so if you have a conventional subdivision there is nothing that I am aware of that concerns any future development or puts restrictions on that future subdivision. If you have individuals that are going to develop only one home or only one home at a time and they have to go to the ZBA, the ZBA does not require that they have a common road maintenance agreement with the existing neighbors or that they join an existing common road maintenance agreement. That whole aspect of how do you deal with future conventional subdivisions or lots in areas that utilize existing old roads. It appears not to have been handled in the regs at all and I think that's an area that should be addressed because it has come up and will continue to come up because we have plenty of old roads in Warwick.**

**Supervisor Sweeton – When the Clerk gives us those notes we'll look into that.**

**CLOSE PUBLIC HEARING: Motion Councilman DeAngelo, seconded Councilman Gerstner that the public hearing be closed. Motion Carried (4 ayes, 0 nays) 7:44 p.m.  
02-04-10 cp.**

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**Marjorie Quackenbush, Town Clerk**