TOWN OF WARWICK PLANNING BOARD
February 3, 2010

Members present: Chairman, Benjamin Astorino
Dennis McConnell
Roger Showalter, Carl Singer, Bo Kennedy
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, February 03, 2010 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 Ray and Myrna Carlisle

Application for *"Amended"* Site Plan Approval and Special Use Permit for the construction and use of a Dog Training facility, situated on tax parcels S 63 B 1 L 8.21 and L 8.22; project located on the western side of County Route 21 1500 feet north of Bowen Road (114 Warwick Turnpike), in the MT zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the 12/16/09 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer. Mr. Lipman, Attorney. Ray Carlisle, Applicant.

The following review comments submitted by HDR:

1. Board to discuss SEQRA.
    a. Provide supplemental screening/landscaping to Town Planner's specifications.
    b. Replace four trees removed next to driveway with suitable screening landscaping planted further back from the road.
2. Applicant to discuss project.
3. Board and Applicant to discuss site inspection.
4. The Hours of Operation note on Sheet 1 must be modified to state that the hours of operation are from 9am to 5pm seven days a week.
5. The complete language of the ZBA approval and any conditions must be included as a note on the site plan (sheet 1).
6. Sheet 1, Note 11 please revise word liter to litter.
7. Outdoor lighting to be removed to Planning Board Engineer's specification.
8. A note should be added to the plan stating that dogs are to be kenneled or leashed at all times.
9. A note should be added to the plan stating that the operation shall comply with the Town Noise Ordinance §100A.
10. A note shall be added to the plan stating how many dogs will be the portable shed house at one time (maximum number).
11. Other minor drawing changes, as stating in HDR letter dated February 03, 2010.

Before Final Approval:

12. Provide the declaration and the recording information on the plan for the Ridgeline Overlay Notes.
13. Pay a three-year term Landscape Bond and Inspection Fee for screening plantings.
14. Payment of all fees.

The following comment submitted by the Conservation Board, dated 2/3/10:

Ray and Myrna Carlisle - A few CB members participated in the site visit. There appears to be very little adverse environmental impact from the proposed dog training facilities. It might make sense to have limited hours of operation to minimize noise impact on neighbors – none of which are particularly close to the training grounds.

The following comment submitted by the ARB:

Ray and Myrna Carlisle: None submitted.

Comment #1: Board to discuss SEQRA.

Mr. Fink: We had previously filed an Amended Negative Declaration on the prior site plan. As a result of the number of changes that were made to this current plan, we needed to amend the Negative Declaration. I have done that. The Board has a Draft copy of the Amended Negative Declaration in their packets. The description of the action had changed slightly to reflect the changes that had been made to the site plan. There were a couple of other purposes for the issuance of the Negative Declaration that also had changed. They are as follows; the use of the buildings, the portable shed, the 1-1/2 story-framed building, hours of operation, compliance with the Town's Zoning Regulations, and a recognition of the Federal jurisdictional wetlands that is located on the site, but not anywhere near the proposed construction along with the graveled access road to provide access to the portable shed for keeping the dogs. Those were the primary changes that were made. There is also a recognition in the Negative Declaration about the Planning Board's field visit that occurred on January 26, 2010.

a. Provide supplemental screening/landscaping to Town Planner's specifications.

Kirk Rother: Mr. Carlisle had said that has been done. The trees are planted already. I believe the Board had seen those trees. At the back of the southwestern side of Carlisle, there was a whole row of Norway spruce about 7 or 8 feet in height that Mr. Carlisle had planted. There were also 4 additional Norway spruces planted at the entrance.

Mr. Bollenbach: Ted, did you have the opportunity to verify that?

Mr. Fink: I went to the site today. It was dark out when I got there. I did not have the chance to verify that yet. I could certainly go out again and verify that.

Mr. Bollenbach: Are the Board members satisfied?

Mr. Astorino: Yes.

Mr. Showalter: I am satisfied. I have seen what was there.

Mr. Bollenbach: Ok. Comment #1-A could be stricken.

b. Replace four trees removed next to driveway with suitable screening landscaping planted further back from the road.

Kirk Rother: Right. We show those 4 proposed Norway Spruces on the plan.

Mr. Lipman: Are they proposed? They are there.

Kirk Rother: They have been on these plans since the original approval.

Mr. Bollenbach: Are they planted?

Mr. Astorino: We are talking about the ones by the driveway. Those trees are not done yet.

Ray Carlisle: I thought those trees were to be cut down. That has been done. Everything in the front as per the Highway Department has been cut down.

Mr. Astorino: Now, you need to plant a couple more trees.

Ray Carlisle: Do you want 4 more trees planted?

Mr. Astorino: Yes. Just put those trees back further so they are not in the sight distance.

Kirk Rother: That has been there since the approval.

Mr. Astorino: Yes.

Mr. Bollenbach: Ok. Comment 1-B could stay as is.

Comment #2: Applicant to discuss project.

Kirk Rother: The Board had an opportunity to see the site with their own eyes. The change in this plan from the original plan was the relocation of the kennel to an area which conforms to the 300-foot setback. At the last meeting, an adjoiner property owner brought up a question about some clearing that was done by Mr. Carlisle that was done in the fall of 2009. We went and located the new tree line. It is shown on this plan. I believe the Board had seen the extent of that work at the site visit.

Comment #3: Board and Applicant to discuss site inspection.

Mr. Astorino: The Board went out to the site on January 26, 2010. I don’t think there were any significant trees taken down.

Mr. McConnell: I didn't see any.

Mr. Astorino: We didn't see any as far as any fill or what have you. There weren't any erosion problems.

Mr. Bollenbach: The site has been adequately stabilized?

Mr. Astorino: Yes.

Mr. Showalter: Absolutely.

Mr. Astorino: It had been seeded. Everyone of us was out there. Gentlemen, do you have any other comments about the site visit? I think it was adequate with what we had seen.

Mr. Bollenbach: Ok. We can strike comment #3.

Comment #4: The Hours of Operation note on Sheet 1 must be modified to state that the hours of operation are from 9am to 5pm seven days a week.

Mr. Lipman: Why?

Mr. Bollenbach: That was what Mr. Carlisle had offered at the Work Session.

Mr. Astorino: You could change that if you like.

Mr. Lipman: The note on the plan shows from 9am to 7pm. I think that is what he would like.

Mr. Bollenbach: At the Work Session that is where these notes came from. Carlisle offered that 9am to 5pm would be adequate. It was Mr. Singer's recommendation.

Mr. Lipman: Are we talking about the shows?

Mr. Bollenbach: Yes.

Mr. Lipman: You are not talking about the regular training.

Mr. Bollenbach: No.

Mr. Lipman: If that were for shows, then that would be fine. But, I don't think it is clear.

Mr. Astorino: Maybe, you should make a note to that effect for shows.

Mr. Lipman: I thought you were talking about training.

Mr. Astorino: From what I had seen out there, where you are located, you will not hear anything.

Mr. Bollenbach: We could put 9am to 5pm seven days a week for dog shows/special events.

Mr. Lipman: Don't call it dog shows. Call it special events. And, we could put 9am to 7pm for dog training.

Mr. McConnell: It should be called special dog events. That would prevent you from brining in weddings.

Mr. Astorino: Kirk, put a note on the plan to clarify that.

Kirk Rother: Ok.

Comment #5: The complete language of the ZBA approval and any conditions must be included as a note on the site plan (sheet 1).

Mr. Lipman: The ZBA approval is now completely irrelevant.

Mr. Astorino: Does that come into play at all?

Mr. Bollenbach: No.

Mr. Lipman: That is out.

Kirk Rother: I spoke to Laura about this earlier today to give her a history on it. I still have a floater on here under the Bulk Requirements with an * that says *"area variance granted by the ZBA"*. I will delete that.

Mr. Bollenbach: We will keep comment #5 and put delete reference to ZBA variance.

Kirk Rother: Correct.

Comment #6: Sheet 1, Note 11 please revise word liter to litter.

Kirk Rother: Yes.

Comment #7: Outdoor lighting to be removed to Planning Board Engineer's specification.

Mr. Astorino: We had seen that on the trees at the site visit. Mr. Carlisle said it would not be a problem to remove it. They are halogen lights. They will come down.

Comment #8: A note should be added to the plan stating that dogs are to be kenneled or leashed at all times.

Mr. Astorino: I think Dennis had an issue with this comment.

Mr. McConnell: Yes. I was puzzled by this. I wanted to ask Mr. Carlisle that it was my understanding that the training you will be doing it would be impracticable to have dogs on a leash or in a kennel at all times. It would frustrate in what you are trying to do. Is that correct?

Ray Carlisle: Yes. That is correct.

Mr. McConnell: This must have been a misunderstanding somewhere. I think we should strike comment #8.

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

Mr. Showalter: No problem.

Mr. Singer: No problem.

Mr. Astorino: Ok. We will strike comment #8.

Comment #9: A note should be added to the plan stating that the operation shall comply with the Town Noise Ordinance §100A.

Mr. Lipman: It law.

Comment #10: A note shall be added to the plan stating how many dogs will be the portable shed house at one time (maximum number).

Mr. Lipman: I don't understand that note. Are we talking about the new structure?

Mr. Bollenbach: We are talking about the new proposed structure. Why don't we add the "proposed" portable shed?

Mr. Lipman: As I understand it, there isn't any limit to the number of dogs that we could kennel in the kennel. I thought we were looking at the maximum number of dogs that we could add.

Mr. Astorino: We already have that.

Mr. Lipman: Right. So, where is this coming from?

Mr. Astorino: I believe there was a discussion at the Work Session with Mr. Carlisle on how many dogs he would have there in total. That would be up to Mr. Carlisle.

Mr. McConnell: Certainly, if Mr. Carlisle was planning on 40 dogs, that would require a larger structure.

Mr. Astorino: I guess the question could be then to the size of the structure, how many dogs could you have in there?

Mr. Lipman: I had said to him earlier today that maybe we should talk about the number of square feet per dog.

Ray Carlisle: I am confused where the question is. How many dogs would be training at one time?

Mr. Lipman: No. We are talking about how many would be kenneled.

Ray Carlisle: How many dogs we would be training at one time would be difficult to establish. The size that property would hold and the amount of dogs that you could put in that area that wouldn't be in conflict with any, unless there would be a reason to limit that, I would like to be able to bring in dogs for training and keep them for an X number of days. I can't tell you how many that would be.

Mr. Bollenbach: What is the dimension of the proposed shed?

Mr. McConnell: You are proposing a shed that would be used for holding dogs in a situation that you had just described.

Ray Carlisle: Right.

Mr. McConnell: How many do you think you could appropriately hold in that shed?

Ray Carlisle: The size of that shed is 16'x24'. We could hold about 15 dogs in that size structure.

Mr. Bollenbach: That sounds good.

Mr. Astorino: That sounds good to me. We could put in there with a maximum to be 15 dogs.

Mr. McConnell: Yes.

Mr. Astorino: We could put a note to that effect.

Mr. Lipman: That will be fine.

Comment #11: Other minor drawing changes, as stating in HDR letter dated February 03, 2010.

Laura Barca: Those are in the letter above on the same page. There are items 6, 7, and 8. In item #6, a clearing limit line needs to be added to the plan for any proposed clearing. If there is not, then that would be fine. You would then need to say that there is no proposed clearing and that everything had been cleared.

Mr. Lipman: There is nothing proposed.

Kirk Rother: There would probably be a little bit of clearing right around that structure. As the Board might have seen, it is right in the corner of the paddock.

Mr. Astorino: No. It doesn't need it.

Kirk Rother: Ok.

Mr. Astorino: There is nothing there. We were there.

Mr. Lipman: Do you want to say accept what is necessary?

Mr. Astorino: There is nothing there.

Comment #12: Provide the declaration and the recording information on the plan for the Ridgeline Overlay Notes.

Mr. Lipman: Yes.

Comment #13: Pay a three-year term Landscape Bond and Inspection Fee for screening plantings.

Ray Carlisle: Yes.

Comment #14: Payment of all fees.

Ray Carlisle: Yes.

Mr. Bollenbach: We need to add two more comments. We will need to add a comment #15. I had some discussions with the Building Inspector. Comment #15, will read as follows; *applicant to obtain building permits and certificate of compliance for previously constructed 1-1/2 story framed building, office/storage shed, and fencing.* Comment #16, will read as follows; *It relates to General Note #11, which is to clarify that the 1-1/2 story framed buildings is for the applicant's personal use only.*

Mr. Lipman: Regarding comment #15, is that a condition of this approval?

Mr. Bollenbach: Yes.

Mr. Lipman: So, the approval won't become effective until those things are done. Is that correct?

Mr. Bollenbach: Correct.

Mr. Lipman: Why can't you put a time limit on it after the approval? This way it would give us time to get it. We are not using the building for anything.

Mr. Bollenbach: Make the application for the Building Permit. That will be it.

Mr. Lipman: I think you want the Certificate of Compliance.

Mr. Bollenbach: Correct.

Mr. Lipman: Would you get that in time for us to be able to use this thing if we apply for it.

Mr. Bollenbach: It would be up to the applicant to get it done properly. It is on you, not for the Town to wait until you are good and ready to obtain a Building Permit and to bring the structures up to specifications.

Mr. Lipman: We can't do more than apply.

Mr. Bollenbach: We could adjourn it. We could have further discussions with the Building Inspector. This was one of his requirements.

Mr. Lipman: That was one of his requirements.

Mr. Bollenbach: Yes. This was what he required to be placed on the map.

Mr. Lipman: Aren't we subject to him issuing a Notice of Violation?

Mr. Bollenbach: We have a complaint here that was issued some time ago regarding an illegal apartment. That was in the 1-1/2 story framed-building, which is a significant part of why the applicant is before the Board or what nudged the applicant to be here.

Mr. Lipman: The apartment is vacant.

Mr. Bollenbach: In lieu of going with Orders To Remedy and bringing this action before the Court, Mr. Carlisle made an application to the Planning Board.

Mr. Lipman: Right.

Mr. Bollenbach: Enforcement was held in abayance. I think it is now time to address the structures.

Mr. Lipman: We are going to file an application immediately. I don't know how long it would take between what the responses from the Building Inspector and for how long it may take us to physically do the work.

Mr. Bollenbach: We could adjourn this if you would like.

Mr. Lipman: I don't want it to be adjourned. I am not asking for an adjournment. I am asking for an adjournment of the condition. This way, we would have some reasonable time during which we could use it for this purpose to do what we need to do and we know what we need to do.

Mr. McConnell: Use what for what purpose? I am not following you.

Mr. Lipman: It would be for whatever you are approving it for now.

Mr. McConnell: Ok.

Mr. Showalter: Why does this come up now?

Mr. Bollenbach: There was a violation that was in place. That is why he is here. It was an illegal apartment.

Mr. Showalter: John, why was this not on our original comments way back from a long time ago? If this came up whenever it came up, I don't even see a date on it, why are we getting this whole thing through and now doing this at the very end?

Mr. Bollenbach: It was referred to the Building Inspector. This was what he suggested. The last time around when the final maps came in, mysteriously it indicated that the 1-1/2-foot story structure was going to be used for apartment purposes. That was not part of the Planning Board's approval at that time. This was something that came back. There was an Order To Remedy. The apartment was abandoned. Now, it has come back. The Building Inspector looked through his notes. He had asked if the Planning Board would consider putting this on the map, so we could resolve this particular issue.

Mr. Lipman: There was nothing mysterious about the note on the plan. The note was there for anybody to see. It wasn't seen. It wasn't observed. When we went to measure that building's setback, there were some dimensional requirements that it didn't meet.

Kirk Rother: This goes back to the approval, the first time around for site plan approval, which was about 1-1/2 years ago.

Mr. Lipman: in any case, after you discovered America and told us that you did not have an awareness of it, we went, looked, and observed that we couldn't bring it into compliance if we were to have that apartment upstairs. I said that we would empty the apartment. We did empty the apartment. It has remained emptied. It will remain empty until it is legitimate. I don't see that we have a problem here. We are not using it for anything. If we do, we will be in violation not only of this but also of the law.

Mr. Astorino: What is the issue in doing this?

Mr. Lipman: It is the timing.

Mr. Astorino: The timing for doing what?

Mr. Lipman: For using the property.

Mr. Astorino: I understand that. I am talking about the timing to bring the building to compliance. What has to be done?

Mr. Lipman: I don't know yet.

Kirk Rother: That is the issue. I am going to guess that out of the three items the fence is probably a non-issue. It would be the matter of going and getting a Building Permit. The same would go with that structure that is being used as an office. That would probably be just a permit for the shed. With the 1-1/2 story building, I suspect the issue that Mr. Lipman and Mr. Carlisle has is that we don't know what the Building Department would ask for.

Mr. Astorino: Maybe, they might ask you to remove the kitchen.

Kirk Rother: I don't know.

Mr. Astorino: Would they make them remove the building?

Mr. Bollenbach: No. They are not going to make them remove the building. They need to obtain a Building Permit and bring it into compliance with the Code. That is all.

Mr. Lipman: I don't feel that it would be fair to tell us tonight that has to be done before we could use this for a purpose where we have been before this Board for what now 2-years. This is crazy.

Mr. McConnell: I think you could also make the point that it is crazy that you haven't already started that process.

Mr. Lipman: No. It was never a condition that was ever mentioned.

Mr. Singer: Could we give them a time to do it?

Mr. McConnell: Yes. I think that it is crazy that they haven't started the process. But, I don't see the relation of that to the use of this for what it is here for. I would have no objection in giving them a time frame.

Mr. Astorino: Give to them within a certain time frame to have it done.

Mr. Singer: Could you do it within 90 days?

Mr. Lipman: I don't know until the Building Inspector tells us precisely what he wants done.

Mr. Astorino: To get it done within 90 days is a long time. I don't see it being a detriment.

Mr. Lipman: It can't be too long. It only could be too short. If I come back here with a legitimate reason to extend it, could you extend it? I would then except 90 days in that case.

Mr. Singer: I could build a house in 90 days.

Mr. Astorino: Is the Board ok with 90 days?

Mr. Singer: Yes.

Mr. McConnell: Yes.

Mr. Lipman: Is there a violation now that has been put into place?

Mr. Bollenbach: It has not yet been issued. But, I have the complaint which is on filed. The way that this was temporary closed out is that there was noted as of 6/19/09 that the apartment was vacated and a Planning Board application was pending.

Mr. Lipman: Right. But, we are applying for that use now. We withdrew that application.

Mr. Bollenbach: The structure appears on the map.

Mr. Lipman: Yes. It says on there that it would not be used by anybody but him. Where is the violation?

Mr. Bollenbach: He was building without a permit. You are before this Board. We are trying to get everything into compliance.

Mr. Lipman: You are talking about getting a Certificate of Compliance.

Mr. Bollenbach: Correct.

Mr. Lipman: Fine. I will take 90 days.

Mr. Singer: Is that building hooked up to a septic?

Mr. Bollenbach: The applicant will obtain a Building Permit within 7 days.

Mr. Astorino: Yes.

Mr. Lipman: They could apply for it within 7 days. I will apply for that immediately. But, I can't be committed to tell you how long it would take to give to you whatever I need to give. I don't even know what he would be requiring.

Mr. McConnell: All you could do is make a good faith application.

Mr. Lipman: Do you like that language in there?

Mr. McConnell: Yes. I like that language.

Mr. Lipman: Fine. Put it in there. Put in there good faith application.

Mr. Bollenbach: Comment #15 will read as follows; *Applicant to make a good faith application for Building Permits within 7 days and obtain Certificate of Compliance within 90 days for previously constructed 1-1/2 story framed building, office/ storage shed, and fencing.*

Mr. Astorino: Ok. We are all set with that. Do any Board members or Professionals have any further comments? We have a comment from the Conservation Board, dated 2/3/10 for the record. This is a public hearing. If there is anyone in the audience wishing to address the Ray and Myrna Carlisle application, please rise and state your name for the record. Let the record show no public comment.

Mr. Kennedy makes a motion for the Amended 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 Amended Negative Declaration

Name of Action: Carlisle Dog Training Facility

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed Dog Training Facility at an existing residence, 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 4/25/08, an Amended Site Plan dated as last revised on 1-26-10, 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 Amended Negative Declaration and authorizes the Chair to execute the EAF and file the Amended 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. Singer. Motion carried; 5-Ayes.

Mr. Showalter makes a motion on the Ray and Myrna Carlisle application, granting ***"Amended"*** Site Plan Approval and Special Use Permit for the construction and use of a Dog Training facility, situated on tax parcels S 63 B 1 L 8.21 and L 8.22; project located on the western side of County Route 21 1500 feet north of Bowen Road (114 Warwick Turnpike), in the MT zone, of the Town of Warwick, County of Orange, State of New York. An Amended SEQR Negative Declaration was adopted on February 3, 2010. "Amended" Site Plan Approval and Special use Permit is granted subject to the following conditions:

1. Replace four trees removed next to driveway with suitable screening landscaping planted further back from the road to Town Planner's specifications..
2. Amend Map Note for Hours of Operation to be from 9:00 a.m. to 7:00 p.m.
3. Delete reference to ZBA variance.
4. Sheet 1, Note 11 please revise word liter to litter.
5. Outdoor lighting to be removed to Planning Board Engineer's specification.
6. A note should be added to the plan stating that the operation shall comply with the Town Noise Ordinance §100A.

7. A note shall be added to the plan stating how many dogs will be housed in the proposed portable shed at one time (maximum number 15).
8. A clearing limit line needs to be added to the plan for any proposed clearing.
9. Provide the Declaration and the Recording Information on the plan for the Ridgeline Overlay Notes.
10. Pay a Three-Year Term Landscape Bond and Inspection Fee for screening plantings.
11. Payment Of All Fees.
12. Applicant to make a good faith application for Building Permits within 7-Days (By February 11, 2010) and obtain Certificate of Compliance within 90-Days (By May 4, 2010) for previously constructed 1-1/2 Story Frame Building, Office/Storage Shed, and Fencing.
13. Revise General Note #11 to read as follows: *The existing 1-1/2 Story Frame Building is for Applicant's personal use only and shall not house more than three dogs at any time nor shall it be used for keeping of more than one litter of puppies per year*.

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

Kirk Rother: Thank you.

Mr. Lipman: Thank you.

Other Considerations:

1. **Ted Edwards #3 –** Planning Board to review AP-O Site Guidelines for recommendation to the Town Board.

   Mr. Astorino: Ted, is there anything that you want to add to that?

   Mr. Fink: It was pretty much self explanatory. Laura and I went out to the field with Karen Emmerich from Lehman & Getz as well as with Mr. Edwards. When we there in the field, there were many questions that came up prior to that. When we were out in the field, we were able to see the property surrounding and so forth. We were then able to complete the checklist. Everything here that the applicant is proposing is consistent with the siting guidelines for the AP-O.

   Mr. McConnell makes a motion to make a Planning Board recommendation to the Town Board for the proposed Ted Edwards #3 Subdivision regarding the AP-O Site Guidelines.

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

2. **Proposed Town Zoning Changes –** Planning Board to discuss and comment on the proposed Zoning changes pursuant to Section 164.60 for recommendation to the Town Board.

   Mr. Astorino: Ted, you will have to send us a memo on that. Ted, do you have any further comments on that?

   Mr. Fink: There were a couple comments raised by Planning Board members following the Work Session meeting. Carl and Dennis had provided me with their comments on it. Dennis had a couple of suggestions. Those suggestions appear on page 2 with the recommendation for two passages in the cluster subdivision regulations to be amended. For one of them, there was a reference in there to the use of the open space. It is stated clearly. The first one was the use of open space in its natural condition. For example; it said for fallow field or managed meadow. Dennis had pointed out correctly that those are not really in their natural state because they are managed. That made sense to remove the reference to fallow field or managed. The second one was in a situation which we haven't encountered yet, but we may in the future. That would be a situation where an applicant proposes a golf course. As one of the uses that are permissible as part of the open space with a cluster subdivision. Golf courses as we are all aware are a land use that has the potential to cause some significant re-grading, vegetation removal, planting, landscaping, as well as intensive application of urbicides, pesticides, and so forth. One of the goals of a cluster subdivision is preserving land in its natural state. That could place the golf course at odds, unless it was designed with regard to the important natural resources that are present within the open space area. We came up with a recommendation here that if a golf course is proposed as part of the open space, that would be done with due regard to wildlife conservation and habitat management and other natural resource management. That way, it would minimize the effects of the re-grading, vegetation, loss of habitat, and animal species, etc… That also seemed to be a very reasonable approach to make sure that whatever golf

course gets built to make sure that it is done right. As an example, there is an organization called the Audo-Bon International. They have been employed by quite of number of golf courses. Now, nationwide because they do an investigation of the property, they look at the natural resources that are present there and they do hold a natural resource management plan that is designed to preserve and protect the natural features of the property and to minimize the use of your urbicides and pesticides. There are plenty examples around the country. Those were two suggestions that were raised. Carl had brought up some concerns about the extent of the 2-bedroom apartments that are proposed as part of the 2-story mixed-use building that would be permissible in the LB zone. It is a valid comment. I put in here that there were some other mitigating factors that had to do with the current permissibility of single-family and 2-family accessory apartments within the LB zone. We have a limitation on 25% of the dwelling units in the building.

Mr. Showalter: Ted, as I read it, it is 25% of the dwelling units. Let's say that you had the possibility of cutting up a space into 4 pieces, it is saying that only one of those spaces could have a 2-bedroom apartment and the rest of those spaces would have to be 1-bedroom apartments. Is this how that reads?

Mr. Fink: Yes.

Mr. Bollenbach: It think it is square footage. It is 25% of the square footage.

Mr. Fink: I think there was a suggestion in there for the Town Board to consider lesser percentages. It is not a specific recommendation. It is an issue the Board may want to revisit. The LB is one of those districts that is overlaid by the Traditional Neighborhood District where the Comprehensive Plan as well as the Zoning Law is already identified as areas that are appropriate for a more higher density development. The last thing that was pointed out was that this is also one form of potential affordable housing within the Town. The plan does recommend that the Town maintain the diversity of housing styles. That is pretty much it. The bottom line is that the Planning Board in this letter recommends that the Town Board that the Zoning amendments be in acted with the two changes that have been recommended.

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

Mr. Showalter: If anybody has any further discussions on the apartments in the LB districts or for anywhere that matter, I see Carl's point. I wasn't able to stay at the entire Work Session with Carl's comments. I didn't get all of his comments. I think we should hold this for further discussion before we put anything set in stone. I do believe that people do need an affordable place to live. Carl also believes that to. However, there might be some things that need to be worked out.

Mr. Astorino: It's in here one way or another. It would be up to the Town Board's decision. I don't see the point of holding it over.

Mr. Showalter: Fine. My opinion is on the record.

Mr. Astorino: That is fine.

Mr. Bollenbach: If any Board members have any further comments, they could address that directly to the Town Board.

Mr. Astorino: Yes. I wouldn't hold it up on my end.

Mr. Fink: Tomorrow night the public hearing was adjourned from the last Town Board meeting. Tomorrow night, the public hearing will be reopened.

Mr. Showalter makes a motion on the memo of the proposed Zoning changes for review of recommendation to the Town Board.

Seconded by Mr. McConnell. Motion carried; 4-Ayes and 1-Nay (Mr. Singer)

3. **Meadowbrook Farms –** Letter from Dave Higgins, Lanc & Tully Engineering, dated 1/20/10 addressed to the Planning Board in regards to the Meadowbrook Farms Subdivision – requesting a 6-Month Extension on "Re-Approval" of Final Approval of a proposed 35-Lot cluster subdivision, situated on tax parcels S 29 B 1 L 65.12 and L 63; parcels located on the northwestern side of Union Corners Road across from Sargent Road, in the RU/AI zones of the Town of Warwick. Final Approval was granted on, 8/6/08. "Re-Approval" of Final Approval was granted on 6/17/09 became effective on, 8/6/09. *The applicant has stated due to the continued difficult economic times, the applicant has been unable to secure a bond for the proposed improvements and is still unable to meet all of the conditions of the approval.* The 6-Month Extension on "Re-Approval" of Final Approval becomes effective on, 2/6/10.

Mr. McConnell makes a motion on the Meadowbrook Farms application, granting granted a 6-Month Extension on "Re-Approval" of Final Approval of a proposed 35-Lot cluster subdivision, SBL # 29-1-65.12 & 63). Final Approval was granted on, 8/6/08. "Re-Approval" of Final Approval was granted on 6/17/09 became effective on, 8/6/09. The 6-Month Extension on "Re-Approval" of Final Approval becomes effective on, 2/6/10.

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

4. **Marrone-Hamburger Lot Line Change –** Letter from John Ziobro, Attorney, dated 2/2/10 addressed to the Planning Board in regards to Marrone-Hamburger Lot Line Change – requesting a 6-Month Extension on Re-Approval of Final Approval of a proposed lot line change, situated on tax parcels SBL # 55-1-33.2 & 89; parcels located on the southern side of Old Mount Peter Road 700 feet northeast of Old Mount Peter Road and Route 17A, in the RU/MT zones, of the Town of Warwick. Final Approval was granted on, 8/6/08. Re-Approval of Final Approval was granted on 12/16/09 became effective on, 8/6/09. *The reason for this request is that it took several months to get a release from the Bank holding a mortgage on one of the parcels. Also, this matter is almost finalized and I am only waiting for the surveyor/engineer to provide the Town with maps.* The 6-Month Extension on Re-Approval of Final Approval becomes effective on, 2/6/10.

Mr. McConnell makes a motion on the Marrone-Hamburger application, granting granted a 6-Month Extension on "Re-Approval" of Final Approval of a proposed Lot Line Change, SBL # 55-1-33.2 & 89. Final Approval was granted on 8/6/08. "Re-Approval" of Final Approval was granted on 12/16/09 became effective on, 8/6/09. The 6-Month Extension on "Re-Approval" of Final Approval becomes effective on, 2/6/10.

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

Correspondences:

1. Letter from Kathryn Johnston Lomax, dated 1/25/10 addressed to the Planning Board in regards to the Warwick Views Subdivision.
2. Letter from Wendy Schlesinger and Mathieu Prevost, dated 1/25/10 addressed to the Planning Board in regards to the Warwick Views Subdivision.
3. Letter from Patrick Adee, dated 1/26/10 addressed to the Planning Board in regards to Warwick Views.

Mr. Astorino: We have those letters in our packets.

Mr. Bollenbach: Mr. Chairman, I just want to address those correspondences quickly. There were questions raised regarding the Warwick Views Subdivision that was in context of the SEQR the DEIS. Those correspondences requested responses to their inquiries and to their concerns. I just want to emphasize that is the purpose of the EIS. The EIS will address all of those concerns. The Board will have the opportunity to review those responses to determine if they are adequate or not.

Mr. Astorino: The written comment period is open until February 17, 2010.

Mr. Bollenbach: Yes. Any additional comments are open until February 17, 2010.

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. We didn't have any agenda items tonight.

Nancy Owen: I had a question on the Carlisle application. When he received approval the first time around, was he required to do the Certificate of Compliance?

Mr. Astorino: John, I think that was where it stemmed from. Is that correct?

Mr. Bollenbach: That was where it stemmed from because it appeared that there was an approval for an accessory apartment, which was not the case at all.

Nancy Owen: Ok. So, he had a violation at that time.

Mr. Bollenbach: There were no violations issued. It was just a notice with an Order to Remedy.

Mr. Astorino: It sounds like he vacated the apartment.

Mr. Bollenbach: They did vacate the apartment. They made an application to the Planning Board to correct the situation.

Nancy Owen: Right. Why are we now asking him to do the other?

Mr. Bollenbach: For him to get the Building Permits, which he never obtained.

Mr. Astorino: He needed to clear up the loose ends. 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 February 3, 2010 Planning Board meeting.

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