

TOWN OF WARWICK PLANNING BOARD

February 6, 2008

Members present: Chairman, Benjamin Astorino  
Russell Kowal, Dennis McConnell  
Roger Showalter, Carl Singer  
Zen Wojcik, Tectonic Engineering  
J. Theodore Fink, Greenplan  
John Bollenbach, Planning Board Attorney

The regular meeting of the Town of Warwick Planning Board was held Wednesday, February 6, 2008, 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 SCOPING SESSION**

***Panoramic Farms c/o Irwin Peckman***

Application for sketch plat review of a proposed 47-Lot + 4-Affordable Homes subdivision, entitled, "***Mountain View Estates***", situated on tax parcel S 18 B 1 L 2; parcel located on the eastern and western sides of Old Ridge Road 1500 feet south of Taylor Road, in the MT/RU zones, of the Town of Warwick, County of Orange, State of New York. Previously discussed at the 11/21/07 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer. Mr. Alan Lipman, Attorney.

The following comment submitted by the Conservation Board, dated 2/6/08:

Mountain View Estates - Here verbatim are the CB's comments, dated October 3, 2007, to the PB on this subdivision.

*The CB notes that this potentially 53 lot subdivision on 169 acres has been given a Positive Declaration with a Type I SEQR Status. Over one mile of roadway will be constructed to access the building lots. Soils of statewide significance may be lost. The location of the property in the Ridgeline Overlay may adversely affect scenic views. Construction on slopes greater than 15% appears to be proposed. There are wetlands and streams that may be adversely impacted during construction. Almost any one, standing alone, of these impacts could support a Positive Declaration.*

*The Orange County Department of Planning notes that due to proximity of agricultural lands, steep slopes, Quaker Creek (a tributary to the Wallkill River), etc., the property is "marginal for development and recommend that the applicant substantially decrease the number of proposed lots." The CB concurs with OCDP recommendation.*

*OCDP also objects to the open space residing across five lots and recommends that two or three, at the most. OCDP also recommends that a land trust be used to preserve the open space and that a homeowners association should not own and protect the open space. The CB concurs with OCDP.*

*Finally, OCDP notes that OC Health Department requires community water and sewer when 50 or more lots are proposed. However, since the primary recommendation is to reduce the yield, it is not likely that central water and sewer would be required.*

*The CB notes that bedrock is fairly close to the surface, i.e., 18 inches or less and concurs with the PB's Engineer that all lots provide percs and deeps.*

*This parcel since it is benefited by a stream and wetlands is likely to be an environmentally sensitive area and more information should be provided on the flora and fauna.*

The CB asks that these comments be considered in scoping out the EIS.

The following comment submitted by the ARB, dated 2/6/08:

Mountain View Estates – None Submitted.

Mr. Fink: I have prepared a chart for the Scoping Session. This chart shows all the different steps in the process that the Planning Board would be undertaking for the review of this application. The first step of this process was the filing of the application and the Planning Board making a determination that the project might have one or more potential significant adverse impacts. That is called a Positive Declaration. Once the Planning Board does that, the next step of the process is to inform the applicant that they will be preparing a Draft Environmental Impact Statement (DEIS). The Planning Board then directs the applicant to submit a scope of issues to be studied in the Environmental Impact Statement. That scope of issues was prepared by Mr. Rother and his engineering firm. They have submitted that document to the Planning Board. It is available for review at the Town Hall. It has also been posted on the Town's website. Connie, is that correct?

Connie Sardo: Yes.

Mr. Fink: Ok. It is available to take a look at. It outlines the potential for examination of things like the impact on traffic, water, sewer, stormwater, etc... The purpose of tonight's meeting is to find out whether or not there are any additional issues that any interested parties would like to see. The Planning Board also affords the opportunity for the other involved agencies including the County Health Department, NYSDEC, and etc... to chime in as well and to present any additional suggestions that they may have for areas to be studied in the EIS. Once the Planning Board is in receipt of comments from the public as well as any other agencies, the Planning Board then takes those comments and makes any revisions to the Draft Scoping Document that they feel are necessary. Then, the Planning Board adopts a Final Scoping Document. That Final Scoping Document, then, is a list of all the issues and details on all of the various studies that would be conducted for the DEIS. The applicant then prepares the document and submits it to the Planning Board. The Planning Board at that time uses the Final Scoping Document to judge whether or not the applicant has prepared all the studies that were incorporated into the Scoping Document. If all the issues have been studied properly, the Planning Board will establish a public comment period. That document would become a public document. Any agency that is involved and any member of the public that is interested in it could review that document and could ask questions and make comments. Those would become part of the public record. At that time, a public hearing would be held to take further comment on the DEIS. Once the public comment period on that ends, the next step would be to prepare a Final Environmental Impact Statement (FEIS). That is a document that responds to all the

comments and questions that come in during the public comment process. The Planning Board would review that document, adopt it, and then file it with all the other agencies. The final step after the FEIS is adopted is the preparation of a written Findings Statement. That is a statement that essentially is a conclusion to the process. It includes what the Planning Board's Findings are with regard to all of the areas of impact such as traffic, water, and sewer. After that process concludes, then the Planning Board will further consider the proposed subdivision application. With that said, we will have Kirk Rother give a little presentation about the project and what is being proposed.

Kirk Rother: There is a copy of the proposed cluster subdivision map up on the board. The applicants propose a 51-lot cluster subdivision on approximately 170 acres of land lying on Old Ridge Road, in the RU zone. The project would support 47 lots by right on a plan that is called a yield plan. Those lots have to be a minimum of 3 acres in size and meet all of the zoning criteria established by the Town of Warwick Zoning Ordinance. Once we prove to the Planning Board and ourselves that it is a viable plan, then we would ultimately pursue the cluster subdivision plan with the objective of preserving at least 50% of the parcel as open space. The plan that we have now presented to the Board preserves slightly more than that. It is 53.5% open space. That would leave approximately 91 acres of land left open. We have done some preliminary soil tests on the site. It seems like the soils are ok for septic systems. We have identified in our Draft Scoping Document potential impacts of things such as traffic, wetlands, slopes, water, and sewer. That is primarily it. We are very early in the process. The purpose of tonight's meeting is to present this to the public. We want to get any public input beyond those issues that our office and the Planning Board have identified.

Mr. Astorino: This is a Public Scoping Session. If there is anyone in the audience wishing to address the Panoramic Farms / Mountain View Estates application, please rise and state your name for the record.

Eric Karlin: I live on Kings Ridge Road. I understand the SEQR process. I know that this is a Scoping Session and a preliminary Scoping Document has been made. What you are looking for tonight is if there is anything in addition to what is already in there. I am not going over to what is already in the document. I have a number of concerns that are not in the document. The first concern that I have is in regards to groundwater. This proposed development would be doubling the number of houses in this particular area. Especially when you look at adjacent areas on Old Ridge Road, there are areas that are double the size of this with half the number of lots. You are looking at a very high density of homes going in. When you look at groundwater systems, you would have to think about the impacts of groundwater over time, and groundwater tables being withdrawn over decades done over years. Often times when you test for groundwater, you drill a well and pump it for a day or two to see how much impact there would be on neighboring wells. But, that doesn't show the impact over 10, 15, or 20 years of excessive water withdrawal. There could be a drawdown of the water table. I don't see that in the Scope; what would the long term impact be on the groundwater withdrawn at the rate that this would be. This will be a big withdrawal for this area. Secondly, the area would have an increase in runoff. You are going to have 50 something homes with a mile or so of roads. I don't see anything in the Scoping Document or I don't remember addressing runoff issues. The increase runoff issue would be less groundwater recharge. The groundwater is going to be less able to come back from having material coming out. The third concern that I have is regarding traffic issues. That is in the Scoping Document, but this is really a significant increase in the density of housing in the area. Old Ridge Road itself is already not in the greatest shape. Access from

Old Ridge Road onto Route 94 into Florida is very hazardous. That needs to be addressed very closely. There is something that I don't see in the Scoping Document is the change in the neighborhood character. If you look at the surrounding areas, they are all relatively large lots. Some of them are in a country setting. This is a high-density housing development going in. It is completely different from what the rest of the neighborhood is at the moment. That is something that needs to be addressed. A concern that I have about the clustering is that a lot of the open space which is not being developed is already somewhat undevelopable. You have all of these great big cliffs and rocky areas. You have all of these rocks coming close to the soil. What is really being saved here is something that could not be developed anyway. I have a real concern about what the benefit is of this if you cannot develop that ridge along Old Ridge Road anyway? That is all rock. If that is being counted as open space it isn't being developed and couldn't be developed. I need to see that. The last thing is that there were some documents that aren't here tonight. One document showed the phasing of this. The document showed the original plot then it showed where the proposed development was and where the roads would be. One of the diagrams showed proposed development space. Then when you saw the houses going in, they occupied more of proposed development space. They were occupying areas that were beyond the proposed development space. How do you put houses in an area that the original map says was not supposed to be developed? Maybe, I don't understand the map. If you look at the map, you will see houses in spots that are outside the proposed development areas. I would like to have that explained.

Mr. Astorino: Good. Is there anyone else wishing to address the Board on the Mountain View Estates application? Let the record show no further public comment. We received a comment from the Conservation Board, dated 2/6/08. Do any Board members have any comment?

Mr. Fink: I would like to add that the written comment period for the public to submit is open until 2/16/08. It is opened for another (10) days.

Mr. Astorino: Thank you.

Mr. Bollenbach: Ted, regarding the Scoping Document, the County had concerns, would you incorporate those concerns into the Scoping Document? The County had raised concerns previously.

Mr. Fink: Yes. We will also incorporate any other comments from other agencies that we receive before the end of the comment period.

**Mr. McConnell makes a motion to close the public hearing, but written comment period for the Scope will be open until 2/16/08.**

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

**PUBLIC HEARING of Victor J. Ludmerer and George Vurno**

Application for preliminary approval of a proposed 6-Lot cluster subdivision entitled, "*Masker Fruit Farm, Inc.*", situated on tax parcel S 53 B 1 L 20; parcel located on the eastern side of Brady Road, closest intersection with Cascade Road, in the MT/CO zones, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the 12/5/07 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Applicant to discuss well testing and monitoring.
2. Applicant to discuss project.

**YIELD PLAN (LAST REVISED 11/15/06) [NOT SUBMITTED AT THIS TIME]**

3. For the AP-O Note, Town Board resolution number is #R2007-303.
4. Board to consider special approval of proposed 14% grade for private road (not a waiver).

**CLUSTER PLAN (LAST REVISED 1/14/08)**

5. Revise AP-O Note per Yield Plan comment.
6. FOR THE RECORD – Applicant has revised the location of the dwelling and the driveway for Lot #5, as requested by the Planning Board.

**SWPPP COMMENTS (DATED, SEPTEMBER 2007)**

7. Provide swale sizing calculations for "Swale A", "Swale B" and "Swale" (running from intersection with Brady Road to proposed wet pond). [The Drainage Basin Calculation Plan calculates the discharge but does not have any calculation for swale dimensions or any other means to check their sufficiency.]
8. Show the limits of disturbance on the "Drainage Basin Calculations Plan" attached to the SWPPP report.

**BEFORE FINAL APPROVAL**

9. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Private Road Notes, Private Road and Drainage Facility Use and Maintenance Agreement Notes, and Open Space Note.
10. Provide a dedication strip on Brady Road for the Town Board's consideration.
11. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space (per the Town Engineer's specification).
12. Propose an acceptable name for the road and provide 9-1-1 addressing.
13. Pay parkland fees.
14. Pay performance bond and construction inspection fees for private road, stormwater management and erosion control.
15. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 2/6/08:

Victor J. Ludmerer and George Vurno (Masker Fruit Farms, Inc.) – CB recommends that plans have radon/uranium notes. Who owns open space parcel A?

The following comment submitted by the ARB, dated 2/6/08:

Masker Fruit Farms, Inc. - The ARB would like to see elevations and architectural drawings of the homes proposed for this subdivision. This is especially important as this subdivision will be very visible from many areas in the Town.

Comment #1: Board to discuss SEQR.

A. Applicant to discuss well testing and monitoring.

Comment #2: Applicant to discuss project.

Mr. Fink: The Planning Board has been reviewing this application with the Full EAF. We are awaiting information on the groundwater testing.

Mr. Astorino: We did not receive the well testing results until late this afternoon.

Kirk Rother: Yes.

Mr. Astorino: That will have to be reviewed by our Professionals. Do you want to give us a little update on what you have found? We will need to review those results.

Kirk Rother: Yes. At the last public hearing, two issues came up. Well water was a concern. The one lot, lot #5 in its proximity to an adjoining landowner identified as Neves, it shows up as Devries on this map. We will correct that. We went to a Planning Board workshop. We asked what radius would you like us to test. It was mutually agreed by the Planning Board that we would test within 1000 feet or notify the neighbors within 1000 feet. We had notified the neighbors within 1000 feet. Some of those parcels were vacant land. We notified them anyway. We initially received (3) responses to participate. There were some concerns brought by the neighbors about the fact that we asked them to make their wells accessible to us. We sent out a follow up correspondence saying that we would open their well caps on their behalf so that there would be no coordinating problems or expenses occurred by the neighbors. It ended up that we monitored (5) wells. We ran our pump tests. We put data loggers in on January 31, 2008. We took them out this past Monday. We ran our pump test last Friday for a period of (7) hours. We pumped a little over 2000 gallons of water out of the Vurno well. Zen received all of this information today. I know that Zen did not have the chance to review them yet to comment on it. It appears to me that at least (3) of the (5) wells there is no influence. One of the five wells which is the furthest away, Zen's office said possible, but we don't know.

Mr. Astorino: That is something that would have to be reviewed. Zen, did you have any time to go through that?

Zen Wojcik: No.

Mr. Singer: Is (7) hours enough time?

Kirk Rother: We followed a protocol. It is called CSFP-625. It is established by the NYS Department of Health. It doesn't specify the overall length of the test. It just says that we would have to have our wells stay stable for a period of (4) hours. We were over (4) hours. Our well only went down about 5 feet in the course of the whole test. We also did change lot 5 to try to address Mr. Neves' concerns as much as possible. We have moved the house and driveway. Other than that, there are no other significant changes to the plan since the last meeting.

Mr. Singer: I think we also talked about blocking the view of that driveway.

Mr. Astorino: We talked about some mitigation plantings.

Kirk Rother: I don't remember talking about it with the Board. I talked about it with Mr. Neves today.

Mr. Astorino: There is a 6-foot cut that will be in for that driveway. I don't think the Board would have a problem with some mitigation plantings there.

Kirk Rother: I am fine with it.

Mr. Singer: It would either be plantings or a fence.

Mr. Astorino: I would say plantings.

Kirk Rother: Looking at the plan, Mr. Neves concern is within this area on the plan with cars that would be coming around this corner. If we have to buffer in some landscaping, this is where it would be.

Mr. Astorino: That is what we are looking for. Board members, is that correct? (general agreement) We will put in some mitigation plantings.

#### **YIELD PLAN (LAST REVISED 11/15/06) [NOT SUBMITTED AT THIS TIME]**

Comment #3: For the AP-O Note, Town Board resolution number is #R2007-303.

Kirk Rother: Yes.

Comment #4: Board to consider special approval of proposed 14% grade for private road (not a waiver).

Mr. Astorino: We will worry about that when the time comes.

#### **CLUSTER PLAN (LAST REVISED 1/14/08)**

Comment #5: Revise AP-O Note per Yield Plan comment.

Kirk Rother: Ok. I have no problems with the rest of the comments.

Comment #6: FOR THE RECORD – Applicant has revised the location of the dwelling and the driveway for Lot #5, as requested by the Planning Board.

Mr. Astorino: Zen, were these SWPPP comments from the last meeting?

Zen Wojcik: Yes.

Mr. Astorino: We will list SWPPP comments 7 through 8 for the record. We will also list comments 9 through 15 for the record. Do any Board members or Professionals have any comments?

#### **SWPPP COMMENTS (DATED, SEPTEMBER 2007)**

Comment #7: Provide swale sizing calculations for “Swale A”, “Swale B” and “Swale” (running from intersection with Brady Road to proposed wet pond). [The Drainage Basin Calculation Plan calculates the discharge but does not have any calculation for swale dimensions or any other means to check their sufficiency.]

Comment #8: Show the limits of disturbance on the “Drainage Basin Calculations Plan” attached to the SWPPP report.

#### **BEFORE FINAL APPROVAL**

Comment #9: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Private Road Notes, Private Road and Drainage Facility Use and Maintenance Agreement Notes, and Open Space Note.

Comment #10: Provide a dedication strip on Brady Road for the Town Board’s consideration.

Comment #11: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space (per the Town Engineer’s specification).

Comment #12: Propose an acceptable name for the road and provide 9-1-1 addressing.

Comment #13: Pay parkland fees.

Comment #14: Pay performance bond and construction inspection fees for private road, stormwater management and erosion control.

Comment #15: Pay outstanding review fees.

Mr. Kowal: You said that you drilled down the well (5) feet before you started.

Kirk Rother: Our well moved about 5 feet.

Mr. Kowal: Where was the water table when you started that?

Kirk Rother: Ours was at I believe about 26 feet. We tested DeStefano’s well, Neves’ well, Ajello’s well, and Sharkey’s well. We also tested one well that sits way up on top of the hill on the other side of the street, called Sanzone’s well. Their well was 100 feet down when we started. It is 400-foot deep well. All the rest of these are around 180 feet deep. The static water levels varied between 20 and 28 feet. They all did not move more than a few feet over the whole test including their own pump operation.

Mr. Showalter: It sounds like they are healthy wells.

Mr. Astorino: We have the results. We need to review them yet. Does the Board or Professionals have anything further?

Mr. Bollenbach: I would add a comment #16. Provide mitigation screening and landscape maintenance bond.

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

Cipriano Neves: I live at the property that adjoins the proposed development. I have two concerns. My first concern is my well. My well is a shallow well. The aquifer is a shallow aquifer as shown by the water level on this test. It is 26 feet. That means that my well is being charged right now. There is tremendous amount of water all over the place. This is a terrible time to have this test done because the aquifer is being charged. I want my well tested in August. Just like what happened last year in August when we had no rain for 30 days and everything was dried up. That would be a test that I could look at to see if there were any problems. My well went down 1-foot.

Mr. Astorino: We haven't reviewed the results yet. We are going to review the results. They were brought in late this afternoon. I am not going to comment on them yet. I don't have the information available to comment on it. Once the results are reviewed by our professionals and us, we will get back to you on it. There will be no action taken on this application tonight because we don't have the results of those water tests.

Mr. Singer: It would be very difficult to do what you are saying by doing it in August. What happens if we have a very wet August? Then, you would say let us postpone it to next August.

Cipriano Neves: No. Rain during August is not like now with all the snowmelt. In the back of my property the mountain has fractured rock. It is exposed.

Mr. Singer: How deep is your well?

Cipriano Neves: My well is 180 feet deep. The pump is at 165 feet. The water is at 25 feet. The water rose 1-foot. What does that tell with all the water? I have water running the back of the property. It tells me that the aquifer is a shallow aquifer. It tells me that the bedrock that is non-fractured bedrock is about 75 feet. The water comes up during the winter. During the summer, it goes down very quick. It is that simple.

Mr. Astorino: That was why we had done the tests.

Cipriano Neves: The tests were done at the wrong time.

Mr. Astorino: I don't agree with that at all. We have done tests all year round with different projects. Again, I can't comment on what the tests results said or if there is interconnection. That would be a major issue if there is interconnection and if there was a significant drawdown. Then, these wells would have an impact. Again, we don't know because the tests have not been reviewed yet.

Cipriano Neves: I want it to go on record saying that I think my well is a surface well. It is a surface aquifer. If there is a prolong period of drought, my well there is a possibility of it going dry, if these (5) new wells get pumped. The house was built in 1980. The well has never gone dry. I have lived there for (6) years. The well has never gone dry. I have a surface well in the

back of the property, 10-foot fed by spring. It has never gone dry. If all of a sudden after these houses are built and my well goes dry, you obviously know that well would get legal recourse.

Mr. Astorino: When your well was dug was there a guarantee given to your neighbors? When your well was dug on your property with the existing neighbors around you, was there a guarantee in your deed in any way, form, or manner that guaranteed your well?

Cipriano Neves: I wasn't there. I cannot answer that question.

Mr. Astorino: I think that is where you are going to with this Board. We cannot give you a guarantee. We could do the best that we can to prove that the water supply is sufficient on these lots going in. The Zoning Code allows a certain amount of building allowed in the community.

Cipriano Neves: The previous gentleman just said that it is not just pumping the well for (4) hours. It is pumping it over 5, 10, or 15 years.

Mr. McConnell: Unfortunately the tests have not been developed that would allow us to look (10) years down the road.

Cipriano Neves: The well has never gone dry in 28 years. If it goes dry after the houses are built, there could be an interconnection. Couldn't there be?

Mr. Astorino: That is why we are doing the test now. It was brought to the Board's attention. The tests were required to be done. Again, we don't know what the test results are. Once our professionals review the results, then we will know what the status is.

Cipriano Neves: Do you want to see my results?

Mr. Astorino: No. We have them. I am not going to make a comment on something that I am going to look at for 5 minutes.

Cipriano Neves: My well went from 26 feet to 25 feet.

Mr. Astorino: When we get the results from the Hydrologist at Tectonic to explain why that happened, then we will move on it.

Cipriano Neves: I just want it to go on the record stating that.

Mr. Astorino: You have.

Cipriano Neves: The well has never gone dry for 28 years. I think it is a shallow aquifer. It means that water during drought conditions will disappear quickly. It is a possibility that my well could go dry.

Mr. Astorino: We have that on record.

Cipriano Neves: My other concern is that regarding the position of the house and driveway that was changed, I am still not happy with it. You have acres of land. You have positioned that house next to my property. You have positioned the driveway with incoming headlights close to my property. What do you give me is the ridge argument the 15% ridge argument. I pass by Black Rock Road. You allowed a rocky ridge to be totally destroyed. Both sides have been

completely depleted of trees. It looks like crap. To that house of 15 Black Rock Road, you have a 15-foot ditch. You are telling me that you cannot snake the driveway to get it away from my property.

Mr. Astorino: I will tell you that the house is over 500 feet away from your property.

Cipriano Neves: That is not the point.

Mr. Astorino: That is the point. The house does not have to be that far from your property.

Mr. Singer: We have it on record. We will review your comments.

Cipriano Neves: Go right ahead. My wife says that we move tomorrow. I have no kids. I cost nothing to this Town.

Mr. Singer: Sir, thank you for your comments.

Mr. Astorino: Is there anyone else wishing to address the Masker Fruit Farms application?

Mr. Showalter: I have a question for Mr. Neves. I am looking at this aerial photo. Is this your driveway right here?

Cipriano Neves: That is correct.

Mr. Showalter: Kirk, is this an accurate depiction of the property line? It looks like the driveway goes over the line.

Kirk Rother: No. It is not. This is just a tax map on here.

Mr. Showalter: So, it is not perfectly lined to scale.

Kirk Rother: It might be off a little bit. This was a glitch. Zen's office is aware of it. We are aware of it.

Mr. Showalter: Ok.

Mr. Astorino: Mr. Neves, you have heard about the mitigation of the plantings.

Cipriano Neves: Yes. I did. What I was saying to you was that you have acres of land. That house could be repositioned. Why position the house and driveway where somebody else faces. You have acres of land to do it. You could snake the driveway.

Kirk Rother: We had an earlier revision of this plan where this driveway was aligned somewhat like I have it in red. The problem was that while we were running with the slope to maintain the side slopes of two on one, etc... The grading ended up coming quite a bit past the driveway. That would result in the clearing of trees. Because this was in the Ridgeline Overlay that was something the Board was concerned about. Zen mentioned that maybe we could run the driveway this way instead and it would result in less cuts and fill. It does do that. But, the Board did see an alternative driveway location. We could accommodate anything. We will do whatever is mutually beneficial to everybody.

Cipriano Neves: You are talking about acres of property. The house is right next to our property line. The driveway is our property line. It is 20 feet away from my property line. This driveway is about ¼ mile long. You could snake this driveway. It doesn't have to be in that ridge.

Mr. McConnell: Kirk, are you saying that by snaking it, you would have to cut more trees and have more cuts and fills?

Mr. Astorino: Zen, I think that was your comment.

Kirk Rother: Bringing the driveway in this way, you would be running across steeper slopes. We could do it. But, the grading would wind up being a wide swath.

Mr. McConnell: You have to follow the Ridgeline Overlay rules on how much you could clear and so on.

Kirk Rother: The discussion with the Board was that this would be a big swath that is cleared of trees. Acreage wise, does this require more clearing than that? Perhaps, it could. The concern of the Board at that time was that this is one contiguous swath.

Mr. McConnell: Right. I could see that.

Mr. Astorino: That is something the Board could discuss.

Mr. McConnell: Yes.

Mr. Astorino: Mr. Neves, do you have anything else?

Cipriano Neves: You are going to make an unhappy neighbor. That is not a good idea. I cost Warwick nothing. I moved here. I have no children. My wife and I retired here. If you want people like me moving in, you don't kick them out.

Mr. Astorino: Is there anyone else wishing to address the Masker Fruit Farms application? Let the record show no further public comment. We will adjourn this public hearing so that we could review the well test results.

**Mr. McConnell makes a motion to adjourn the Masker Fruit Farms public hearing to the February 20, 2008 Planning Board meeting.**

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

Mr. Astorino: We have a comment from the ARB, dated 2/6/08. We also have a comment from the Conservation Board, dated 2/6/08 regarding radon.

Mr. Bollenbach: Is the radon in that problem area?

Mr. Astorino: I don't know.

Mr. Bollenbach: Zen, take a look at that.

Zen Wojcik: I will take a look at that.

**Review of Submitted Maps:*****Kenneth Luft Subdivision***

Application for final approval of a proposed 22-Lot cluster subdivision+ 2-Affordable Homes subdivision and special use permit for the affordable homes, situated on tax parcel S 26 B 1 L 110; parcel located on the northern side of Newport Bridge Road and at the intersection with Blooms Corners Road, in the RU zone. Preliminary approval was granted on 5/17/06.

Representing the applicant: Kirk Rother, Engineer.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Part III EAF explains there will be an impact on the Class 'C' stream. Propose mitigation measures to ensure protection of stream.
  - B. Part I EAF states that blasting will be necessary. Indicate potential blasting areas on plan and provide a narrative outlining blasting procedures and safety measures to protect surrounding properties. Note on plan that a blasting permit will be required from the Town of Warwick.
  - C. Applicant to discuss connectivity of open space along western edge of development and potential impact on wildlife habitat and mobility in the biodiversity area.
  - D. Provide a narrative outlining potential of suitable on-site habitat for the Red Headed Woodpecker, a NYS species of special concern, preservation of such habitat and what, if any, mitigation measures are proposed.
2. Applicant to discuss project.
  - A. Status of approvals.

**YIELD PLAN (REVISED 1-10-2005)**

3. No further comment. Board reached consensus on the Yield Plan on July 6, 2005.

**CLUSTER PLAN (REVISED 11/9/07)**

4. Design road pavement of future Town Road 'A' per §A168-21. Submit calculations for Town Engineer's review.
5. The proposed road section for realigned Newport Bridge Road at Blooms Corners Road indicates two layers of hot mix top course. Revise to conform to the Town's road standards. Note on the Improvement Schematic that before and during intersection modification construction warning signs, to be maintained by the contractor, shall be placed on Blooms Corners Road and Newport Bridge Road consistent with the current version of the Manual for Uniform Traffic Control Devices.
6. Lots 15, 16, 19, 20, 21, and 22 border on open space intended to be continued in agricultural use.
  - A. Board and Applicant to discuss. Applicant is proposing a fence within Lots #23 & #24 to comply with the minimum 100 foot agricultural buffer (per §164-41.1G(4)).
  - B. Note that there shall be no clearing of trees or understory growth within the buffer.
7. Board to discuss street trees.
8. Construction Sequence Notes #1 and #3 are identical. Delete Note #3.
9. Specify affected lots in the Driveway Notes:
  - A. For Note 3 (pave first 25 feet), specify lots 2, 3, 4, 6, 8, 9, 10, 12, 13, 14, 17, 18, 20, 21, & 22.
  - B. For Note 4 (pave entirely), specify lots 1, 5,7,11, & 24.

C. For Note 5 (flaglots), specify lots 15, 16, & 19.

10. Regarding Special Condition 100 (§164-46J(100)) – Affordable Housing:
  - a. 100d – Provide renderings for minimum design and construction standards for Planning Board approval.
  - b. 100g – Provide a marketing plan for the Town Board and Planning Board approval.

**Well Test Comments**

11. Provide a copy of the report on analytical testing of well samples as submitted to the NYSDOH and OCHD. Provide copies of approval letters or comments.

**BEFORE FINAL APPROVAL**

12. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space.
13. Provide copies of the NOI and the signed final SWPPP.
14. Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Private Road Notes, Private Road and Stormwater Management Facilities Use and Maintenance Agreement Notes, Open Space Notes, and Affordable Housing Notes.
15. Petition the Town Board to establish a Drainage District for the maintenance of stormwater management facilities.
16. Provide irrevocable offer for road dedication for Road “A” for the Town Board’s approval. Propose an acceptable road name and place on plans.
17. Applicant to provide 9-1-1 addressing.
18. Pay parkland fees.
19. Pay construction inspection fee and performance bond for proposed Town road, private road, Town road realignment, stormwater management facilities, and erosion control.
20. Pay a three-year landscape maintenance bond for stormwater pond landscaping, road bed reclamation at Newport Bridge/Blooms Corners Roads intersection and street trees.
21. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 2/6/08:

Kenneth Luft Subdivision - CB recommends that the triangle on Newport Bridge Road and Bloom Corners Road should be preserved to maintain the rural character of the road. CB also recommends that as many trees as possible should be left on the property since it is habitat for the red headed woodpecker. CB observes that the plans appropriately contain Franklin Marble/Tremolite, radon and agricultural notes.

The following comment submitted by the ARB, dated 2/6/08:

Kenneth Luft Subdivision - The placement of a flag lot in the midst of conserved open space is antithetical to the very concept of “open space,” particularly if that open space is to be retained for agricultural use, as claimed at the 1/28 work session. Also, that flag lot becomes an unnecessary intrusion on the privacy of the homes already existing on Blooms Corners Road. Readjustment of the open space would allow for recapture of the lot in another area of the parcel while actually preserving open space and critical viewshed.

Also, what is a barn or accessory building doing in the conserved open space behind the existing farmstead.

Who will monitor the tremolite mitigation processes that are now part of the map notes?

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board after reviewing the Full EAF on this project including a number of more detailed environmental studies was concluded by issuing a Negative Declaration. The Board has fully complied with SEQR. As a result of some of the findings that were incorporated into the Negative Declaration, there are a few review comments tonight that relate back to some of the environmental studies that was conducted during the SEQR review process.

- A. Part III EAF explains there will be an impact on the Class 'C' stream. Propose mitigation measures to ensure protection of stream.

Kirk Rother: Right. Our proposed mitigation would be that any disturbance to that stream should be done in the dry season. We will add that language to the plan.

- B. Part I EAF states that blasting will be necessary. Indicate potential blasting areas on plan and provide a narrative outlining blasting procedures and safety measures to protect surrounding properties. Note on plan that a blasting permit will be required from the Town of Warwick.

Kirk Rother: Ok.

- C. Applicant to discuss connectivity of open space along western edge of development and potential impact on wildlife habitat and mobility in the biodiversity area.

Kirk Rother: Right. This was a comment that arose in the latter stages of preliminary approval. What is shown on this plan is open space area C and B behind lots 1, 2, and 3.

- D. Provide a narrative outlining potential of suitable on-site habitat for the Red Headed Woodpecker, a NYS species of special concern, preservation of such habitat and what, if any, mitigation measures are proposed.

Kirk Rother: That is in the works.

Comment #2: Applicant to discuss project.

- A. Status of approvals.

Kirk Rother: The subdivision since it got preliminary approval, it has not changed. The lot configurations have not changed. We are finished with our well testing and soil testing with the Board of Health. I have one last round of review with them. Zen has a copy of those review comments. They are all housekeeping type of things like the drainage easement, septic detail, and some discrepancy on our soil test results. We anticipate Board of Health approval shortly. We are before the Board to start the final approval process.

**YIELD PLAN (REVISED 1-10-2005)**

Comment #3: No further comment. Board reached consensus on the Yield Plan on July 6, 2005.

**CLUSTER PLAN (REVISED 11/9/07)**

Comment #4: Design road pavement of future Town Road 'A' per §A168-21. Submit calculations for Town Engineer's review.

Kirk Rother: Right. We will provide supporting calculations.

Comment #5: The proposed road section for realigned Newport Bridge Road at Blooms Corners Road indicates two layers of hot mix top course. Revise to conform to the Town's road standards. Note on the Improvement Schematic that before and during intersection modification construction warning signs, to be maintained by the contractor, shall be placed on Blooms Corners Road and Newport Bridge Road consistent with the current version of the Manual for Uniform Traffic Control Devices.

Kirk Rother: Ok.

Comment #6: Lots 15, 16, 19, 20, 21, and 22 border on open space intended to be continued in agricultural use.

- A. Board and Applicant to discuss. Applicant is proposing a fence within Lots #23 & #24 to comply with the minimum 100 foot agricultural buffer (per §164-41.1G(4).
- B. Note that there shall be no clearing of trees or understory growth within the buffer.

Mr. Astorino: We had a conversation at the work session. I think the Board thought that the fence would be inappropriate.

Mr. Bollenbach: No. It is the applicant who will be retaining the open space. It is farm area. It does not wish to have a fence located there because it would interfere with the operation.

Mr. McConnell: That was what we had said.

Mr. Astorino: So, the Board agrees that a fence would not be good.

Mr. McConnell: I said that it would look silly.

Mr. Astorino: That was the overall feeling. Are there any other feelings at this point?

Kirk Rother: As far as comment B, no clearing of trees, this particular area that we are talking about is not wooded.

Mr. Astorino: We are going to have some designation of the open space limits with permanent markers. Is that correct? We also discussed that.

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Bollenbach: It might be a little bit different in this particular area. It is done on a case-by-case basis.

Mr. Astorino: Right.

Mr. Singer: Ben, I want to ask Zen a question. At the work session, we talked about Franklin Marble and Tremolite that are located in some spots on this property. You were going to check with your main office if blasting would expose that more or the hammer. Have you had a chance to do that?

Zen Wojcik: Yes. The question is in liberating the dust and rock. Whichever does more is the thing that we have to be most cautious about.

Mr. Singer: Right.

Zen Wojcik: We have a specification that we have used on another project where they were hammering at marble that was close to the surface. It required constant wetting in order to keep the dust down. As far as I know, that was successful. Blasting would be controlled blasting which would generally keep the dust down as well. It is 6 of 1, half-a-dozen of another. Either way, you would have regulatory notes on the plan to make sure that we don't have an expulsion of possibly dangerous material in the area where people could be hurt by it. It is not what the Town does.

Mr. Singer: Tectonic's opinion was that one way is not better than the other is.

Zen Wojcik: Exactly.

Mr. Astorino: But, it is done with the proper protocol.

Zen Wojcik: Right.

Mr. McConnell: What is control blasting?

Zen Wojcik: If you watch a movie and they blast, it is a tremendous amount of stuff flying into the air. Control blasting, there are blast blankets that are put down. There is a correct charge that has been computed for the amount of earth to be moved that is done. It is all done in a manner where the charge is drilled down to the rock at such a point where it could be most effective. What you get is a bit of noise and a bump on the ground. That is the point of control blasting.

Mr. McConnell: Ok.

Mr. Singer: They also discussed the protocol for blasting that you want to make some changes in that regarding that neighbors are notified and we would inspect their foundations before if they want us to. Will that take place?

Zen Wojcik: Mr. Rother had mentioned that he has a geotechnical scientist that would come up with some notes. I spoke to our people to come up with some notes. We will blend some things together and come up with something very effective for the Board to look at.

Kirk Rother: There is a standard procedure for blasting in NYS.

Mr. Singer: I am talking about inspecting the houses before and after so that if there is damage we would know what happened.

Kirk Rother: That is part of it. There are pre-blasting inspections.

Zen Wojcik: If you define an area that the houses would be inspected, there would be a report. I don't know how far we will go. Sometimes they will video a survey of that.

Mr. Astorino: There would be a certain area that might be required for blasting. It is not the whole project. Is that correct?

Zen Wojcik: I don't have anything that explicit about it.

Kirk Rother: I wouldn't rule it out yet, but we might not have to blast at all. I am not an expert on that.

Mr. Astorino: I understand that. My question was that are talking about a certain section of the project.

Kirk Rother: What prompted this was 4-years ago on the Part 1 EAF, which was day one when we submitted the project. On the Part 1 EAF, it asked if blasting would occur. Given that I was out at the site and I saw surface rock, we checked off yes on that. That was what precipitated this to a closer look.

Zen Wojcik: Typically, you wouldn't blast to make a foundation for a house unless it was a very large house.

Kirk Rother: Right.

Zen Wojcik: There is a good chance that there would not be any blasting.

Mr. Fink: Kirk is correct that the way the SEQR EAF form is supposed to be filled out, the directions are specifically that if the answer to the question isn't yes or no, but maybe, then assume that it is a yes. It was properly filled out at that time.

Mr. Astorino: Ok. Does the Board have anything further?

Comment #7: Board to discuss street trees.

Mr. Astorino: You will have to put them in.

Mr. McConnell: Yes.

Mr. Astorino: Do any Board members have a problem with that?

Comment #8: Construction Sequence Notes #1 and #3 are identical. Delete Note #3.

Kirk Rother: Ok.

Comment #9: Specify affected lots in the Driveway Notes:

A. For Note 3 (pave first 25 feet), specify lots 2, 3, 4, 6, 8, 9, 10, 12, 13, 14, 17, 18, 20, 21, & 22.

B. For Note 4 (pave entirely), specify lots 1, 5,7,11, & 24.

C. For Note 5 (flaglots), specify lots 15, 16, & 19.

Kirk Rother: Yes. We will do.

Comment #10: Regarding Special Condition 100 (§164-46J(100)) – Affordable Housing:

a. 100d – Provide renderings for minimum design and construction standards for Planning Board approval.

Kirk Rother: Yes.

b. 100g – Provide a marketing plan for the Town Board and Planning Board approval.

Kirk Rother: Right. Could we use Foxwood Estates as a model?

Mr. Astorino: You could use Foxwood Estates as a model.

Kirk Rother: Ok.

### **Well Test Comments**

Comment #11: Provide a copy of the report on analytical testing of well samples as submitted to the NYSDOH and OCHD. Provide copies of approval letters or comments.

Kirk Rother: Right. I will provide a copy of the engineering report to the Board. that has everything in it.

### **BEFORE FINAL APPROVAL**

Comment #12: Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space.

Kirk Rother: Yes. Mr. Chairman, I am good with the rest of these comments.

Mr. Astorino: Ok. We will list comments 12 through 21 for the record. Do any Board members have any comments?

Comment #13: Provide copies of the NOI and the signed final SWPPP.

Comment #14: Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Private Road Notes, Private Road and Stormwater Management Facilities Use and Maintenance Agreement Notes, Open Space Notes, and Affordable Housing Notes.

Comment #15: Petition the Town Board to establish a Drainage District for the maintenance of stormwater management facilities.

Comment #16: Provide irrevocable offer for road dedication for Road “A” for the Town Board’s approval. Propose an acceptable road name and place on plans.

Comment #17: Applicant to provide 9-1-1 addressing.

Comment #18: Pay parkland fees.

Comment #19: Pay construction inspection fee and performance bond for proposed Town road, private road, Town road realignment, stormwater management facilities, and erosion control.

Comment #20: Pay a three-year landscape maintenance bond for stormwater pond landscaping, road bed reclamation at Newport Bridge/Blooms Corners Roads intersection and street trees.

Comment #21: Pay outstanding review fees.

Mr. Singer: You are saying to follow the marketing plan that we had on a previous project. I was very unhappy with that plan.

Mr. Astorino: Carl, don't forget that we would still have to approve it.

Mr. Bollenbach: Carl, we said to use it as a template.

Mr. Astorino: It would be used as a model. There are issues. This would be the time to change them. We have a comment from the ARB, dated 2/6/08. Is this the house that...

Kirk Rother: That is what is shown as lot 24. The flag is already there.

Mr. Bollenbach: Regarding the ARB's comment, dated 2/6/08, accessory buildings agricultural structures are specifically permitted in the open space. That is what the purpose of the function is supposed to be. Regarding the monitoring of the tremolite, that would be done through the Building Department.

Mr. Astorino: We have a comment from the Conservation Board, dated 2/6/08. We are working on that. As far as their comment regarding the triangle...

Mr. Bollenbach: The triangle under the traffic plan that their section is supposed to be reconfigured for safety concerns.

Mr. Astorino: I think it would be a big mistake to leave that triangle as is.

Mr. Bollenbach: That has already been addressed. It will be redesigned and engineered to improve the traffic safety.

Mr. Astorino: I don't agree with that at all. That should be taken care of. Does the Board want to set this for a final public hearing?

**Mr. Showalter makes a motion on the Luft Subdivision application to set it for a Final Public Hearing at the next available agenda.**

Mr. Singer: Don't we have to wait for the OCHD?

Mr. Astorino: Yes. It is set. If they don't get the approval from OCHD, we will not put it on for a public hearing.

Mr. Singer: Ok.

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

Kirk Rother: Thank you.

**Other Considerations:*****Yong Rosenblatt #2 (115 Blueberry Hill)***

Application for site plan approval for the construction and use of a single-family residence located within "A Sensitive Area" of Greenwood Lake, situated on tax parcel S 73 B 3 L 9; project located on the eastern side of Blueberry Hill (115 Blueberry Hill) 1,850 feet south of Brook Trail, in the SM zone. Previously discussed at the 12/6/06 Planning Board meeting.

Representing the applicant: Gerry Gardner, Engineer.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. The Location Map bears a copyright not owned by the applicant or their engineer. Provide permission from the copyright holder for this use or use a copy of the Orange County tax map for this section. Show the specific location of the property in question.
4. Approximately a third of the parcel is proposed to be cleared for construction. Provide sufficient erosion control measures on plans consistent with the current "NYS Standards and Specifications for Erosion & Sediment Control" and a planting & seeding plan for permanent slope stabilization.
5. Show proposed contours at the house and septic system site.
6. Given the rocky nature of the site, provide one perc & deep per drainage seepage pit
7. Provide a narrative for stormwater management satisfying §164-46H. The report should discuss not only the management of stormwater on the site, but also leaving the site. A swale is proposed along Blueberry Hill leading to a proposed 18" CMP under Blueberry Hill which discharges onto Blueberry Hill R.O.W. and SBL 73-4-8. Show that the design avoids an increase in peak stormwater discharge and velocity at the discharge end of the proposed pipe.
8. Plan shows construction within Blueberry Hill R.O.W. (seepage pits, pipes, swale, regrading), private property not owned by applicant. The project proposes additional development in a subdivision where the existing road and drainage systems are strained to manage current traffic and stormwater runoff. Provide correspondence from the Homeowner's Association allowing the proposed construction and certifying that the proposed construction can occur without an adverse impact to the Associations facilities.
9. An aeration tank and a pump tank are included in the septic system shown on sheet 1. Provide details and a calculation showing that a sufficient pump is proposed. Revise the schematic plan on sheet 4.
10. Show 50% expansion area for septic absorption field.
11. Proposed absorption field is located in soils mapped AND, a Group XII soil where septic systems are not permitted, per the Town of Warwick Code. The applicant should follow the "poor soil" protocol if it is believed that the absorption field is located in an inclusion of suitable soils. Proposed absorption field is ±160 ft. uphill from an existing well on SBL 73-4-9. 200 feet of separation is required. Proposed absorption field is ±90 ft. from an existing well on SBL 73-3-8.1. 100 feet of separation is required. Board to discuss referral to OCHD for septic approval.
12. The proposed dwelling is sited where the natural soil slope exceeds 15%, across both a surface rock outcrop and a band of soil that may have suitable depth for septic systems,

and where soil and structural stability are areas of environmental concern for the Town. Applicant shall provide the Board with a Geotechnical Investigation Report describing the nature, stability and depth to the underlying rock and making recommendations for the foundation of the proposed dwelling.

13. The driveway is greater than 10% in slope and must be paved in its entirety. Place a note on the plan. Remove the "gravel drive" call-out on sheets 1, 2, 3 & 6.
14. Place a pipe (with F.E.S.) under the driveway entrance in the location of the existing roadside swale.
15. Project is in the Ridgeline Overlay. Regarding landscape mitigation, show satisfaction of §164-47.1F(3)(c). Clarify if trees shown on the plan are proposed or existing trees to remain. If proposed, one tree is situated on an identified rock outcrop, two other trees are situated on a steep slope. Show a planting detail and specify soil amendment to promote tree growth.
16. "Sight Triangle" at the plan view is not located at the proposed driveway. Revise.
17. Remove stray "(4) required" note from sheet 1.

The following comment submitted by the Conservation Board, dated 2/6/08:

Yong Rosenblatt #2 (115 Blueberry Hill) - The CB, for convenience, copies its comments from its December 18, 2006 memorandum to the Planning Board for the December 20, 2006 Agenda:

*After looking at the Yong Rosenblatt #2 (115 Blueberry Hill) Site Plan The CB has even more concerns regarding the suitability of the soils at this site to support a (presumably Eljen) septic system. Where are the perc tests? How close are the nearest wells? How close is this proposed building to the Appalachian Trail? The CB also has concerns about drainage both during construction and permanent, especially after seeing what resulted from a "well-intentioned" and by the book home owner. It just may be that there is no way some of these properties can be developed.*

It seems as if not much has changed. One additional note is that the PB should consider specifying chestnut oak trees for screening and site stabilization since these trees are indigenous and "love" rocky soil.

The following comment submitted by the ARB, dated 2/6/08:

Yong Rosenblatt #2 (115 Blueberry Hill) - The ARB questions the advisability of an upflowing septic system.

The sketch of a house submitted on the last page is not representative of the future house and must be resubmitted to the ARB and meet the necessary Ridgeline design guidelines.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been reviewing this application with the Short EAF. There are a number of SEQR issues in the review comments tonight.

Comment #2: Applicant to discuss project.

Gerry Gardner: Proposed is a single-family house. Before we go to the other items, I have a general question. We are getting better at sensitive areas. But, it is getting more and more difficult as it is identified in the comments. We are trying to get a sense on what the Board's feeling is about developing these properties in sensitive areas.

Mr. Astorino: I think there are issues on your site. They are reflected in the comments.

Gerry Gardner: Some of the comments, we have never heard before. They are getting more and more difficult. We are dealing with these properties in sensitive areas. This is not the only one. We are having more and more issues coming up. We will get to them on the list. I am trying to get the sense of what the Board's feeling is about developing these.

Mr. McConnell: The Board's feeling is concern.

Mr. Astorino: It is an extreme concern.

Gerry Gardner: That was what I wanted the Board to acknowledge tonight that it is an issue.

Mr. McConnell: Yes.

Mr. Astorino: The Board was out there on a site visit. Concern is a very good word.

Gerry Gardner: I appreciate you saying that. That was what I wanted you to hear. Let us go through these comments.

Mr. Singer: I for one think that not all properties should be developed. I am having some thoughts about this one in particular on whether or not it should be developed.

Gerry Gardner: I appreciate that comment a lot.

Comment #3: The Location Map bears a copyright not owned by the applicant or their engineer. Provide permission from the copyright holder for this use or use a copy of the Orange County tax map for this section. Show the specific location of the property in question.

Gerry Gardner: Fine.

Comment #4: Approximately a third of the parcel is proposed to be cleared for construction. Provide sufficient erosion control measures on plans consistent with the current "NYS Standards and Specifications for Erosion & Sediment Control" and a planting & seeding plan for permanent slope stabilization.

Gerry Gardner: Will do.

Comment #5: Show proposed contours at the house and septic system site.

Gerry Gardner: Correct. Regarding the septic system, wasn't that approved under a separate submission?

Zen Wojcik: I will check on that.

Gerry Gardner: I believe that it was.

Comment #6: Given the rocky nature of the site, provide one perc & deep per drainage seepage pit.

Gerry Gardner: Yes. We have that. I will submit it to Zen.

Comment #7: Provide a narrative for stormwater management satisfying §164-46H. The report should discuss not only the management of stormwater on the site, but also leaving the site. A swale is proposed along Blueberry Hill leading to a proposed 18" CMP under Blueberry Hill which discharges onto Blueberry Hill R.O.W. and SBL 73-4-8. Show that the design avoids an increase in peak stormwater discharge and velocity at the discharge end of the proposed pipe.

Gerry Gardner: Will do.

Comment #8: Plan shows construction within Blueberry Hill R.O.W. (seepage pits, pipes, swale, regrading), private property not owned by applicant. The project proposes additional development in a subdivision where the existing road and drainage systems are strained to manage current traffic and stormwater runoff. Provide correspondence from the Homeowner's Association allowing the proposed construction and certifying that the proposed construction can occur without an adverse impact to the Associations facilities.

Gerry Gardner: This issue continues from all other comments. Is this a form of a legal document or some letter?

Mr. Astorino: Is there a Road Association?

Mr. Bollenbach: That would have to be provided. I don't know what we have at this particular time. I will take a look at the files to see what type of HOA and how well it is described. It could be something in the form of an easement, or a temporary easement that they could install the facilities and they would need to be maintained by the HOA. Or, would it be maintained by the individual lot owners? It would be more in form of a legal document. If we had some type of a letter, that would be a start.

Gerry Gardner: Right.

Mr. Bollenbach: I would say before an approval would be even granted. We would need some type of a letter confirming that. Then, perhaps the condition of approval would be the actual document.

Gerry Gardner: Some of the facilities are to be maintained by the homeowners.

Mr. Bollenbach: So, that would be sorted out. That is what this document would be. There could be an amended to the HOA that the road use and maintenance agreement to sort out the respective responsibilities.

Gerry Gardner: Ok. That would be fine.

Comment #9: An aeration tank and a pump tank are included in the septic system shown on sheet 1. Provide details and a calculation showing that a sufficient pump is proposed. Revise the schematic plan on sheet 4.

Gerry Gardner: Fine.

Comment #10: Show 50% expansion area for septic absorption field.

Gerry Gardner: Ok.

Comment #11: Proposed absorption field is located in soils mapped AND, a Group XII soil where septic systems are not permitted, per the Town of Warwick Code. The applicant should follow the "poor soil" protocol if it is believed that the absorption field is located in an inclusion of suitable soils. Proposed absorption field is  $\pm 160$  ft. uphill from an existing well on SBL 73-4-9. 200 feet of separation is required. Proposed absorption field is  $\pm 90$  ft. from an existing well on SBL 73-3-8.1. 100 feet of separation is required. Board to discuss referral to OCHD for septic approval.

Mr. Astorino: That is due to the separation and the design of the system.

Zen Wojcik: I don't think we have given an approval for this.

Gerry Gardner: I can't tell you for sure. The applicant has assured me that she has an approval. You and I have discussed the down slope 200 feet because it is requiring one of the roads someplace else. It cannot go directly towards that well. But, the neighboring wells that within 100 feet, we have discussed that before. I guess we would have to be directed to go to OCHD.

Zen Wojcik: That is the point here. They would have to be directed to go to the OCHD if there is inadequate separation distance.

Mr. Bollenbach: Could the project be modified to comply?

Gerry Gardner: It is unlikely because of the limited soils on the project.

Mr. Bollenbach: OCHD would be prudent.

Gerry Gardner: Right.

Zen Wojcik: The reason for the comment is so that the Board would authorize it.

Mr. Bollenbach: Do we have a consensus from the Board to send this application to OCHD?

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Astorino: Ok. We have a consensus from the Board to go to OCHD.

Mr. Bollenbach: I will prepare a letter to OCHD.

Comment #12: The proposed dwelling is sited where the natural soil slope exceeds 15%, across both a surface rock outcrop and a band of soil that may have suitable depth for septic systems, and where soil and structural stability are areas of environmental concern for the Town. Applicant shall provide the Board with a Geotechnical Investigation Report describing the nature, stability and depth to the underlying rock and making recommendations for the foundation of the proposed dwelling.

Gerry Gardner: This is something we would do. This is something that is relatively new. We never had to do this for a building before. Do you have specific information that you want collected?

Zen Wojcik: We have some examples to show.

Gerry Gardner: Ok.

Comment #13: The driveway is greater than 10% in slope and must be paved in its entirety. Place a note on the plan. Remove the "gravel drive" call-out on sheets 1, 2, 3 & 6.

Gerry Gardner: Ok.

Comment #14: Place a pipe (with F.E.S.) under the driveway entrance in the location of the existing roadside swale.

Gerry Gardner: Fine.

Comment #15: Project is in the Ridgeline Overlay. Regarding landscape mitigation, show satisfaction of §164-47.1F(3)(c). Clarify if trees shown on the plan are proposed or existing trees to remain. If proposed, one tree is situated on an identified rock outcrop, two other trees are situated on a steep slope. Show a planting detail and specify soil amendment to promote tree growth.

Gerry Gardner: Fine.

Comment #16: "Sight Triangle" at the plan view is not located at the proposed driveway. Revise.

Gerry Gardner: Zen, there are (2) driveway entrances there.

Zen Wojcik: You only show one entrance being developed.

Gerry Gardner: I will have to look at that again. I thought that it was intended to use for construction.

Zen Wojcik: There is some confusion here. You will need to modify it.

Gerry Gardner: Do you want (2) triangles?

Zen Wojcik: You need to show a sight triangle on where the proposed driveway would be. It seemed to me that it was in a different location.

Gerry Gardner: Ok. We will talk about it.

Comment #17: Remove stray "(4) required" note from sheet 1.

Gerry Gardner: Ok.

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

Mr. Singer: We have a comment from the Conservation Board, dated 2/6/08. One of the members is familiar with trees. He is suggesting a chestnut oak tree that grows well in rocky soil.

Gerry Gardner: Duly noted.

Mr. Astorino: We have a comment from the ARB, dated 2/6/08.

Gerry Gardner: Duly noted. Thank you.

***Tinnirello Subdivision***

Application for sketch plat review of a proposed 3-Lot cluster (Minor) subdivision, situated on tax parcels S 49 B 1 L 56 & L 45.42; parcels located on the southeast side of NYS Route 94 1000 feet southwest of Wawayanda Road, in the RU zone. Previously discussed at the 11/7/07 Planning Board meeting.

Representing the applicant: Rusty Tilton, Engineer.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - a. Clarify Site Context Plan, Existing Resource Plan, and 4-Step Plans to the Town Planner's specifications.
2. Applicant to discuss project.

**YIELD PLAN: (DATED 10/15/07, LAST REV 1/9/08)**

3. Provide percs & deeps witnessed by the Town Engineer and an engineered sanitary sewage disposal system or use the Environmental Control Formula (§164-41.3).

**CLUSTER PLAN: (DATED 10/15/07, LAST REV 1/9/08)**

4. Provide percs & deeps witnessed by the Town Engineer and an engineered sanitary sewage disposal system. Include details for all features.
5. Show suitable erosion control facilities, in accordance with the *NYS Standards and Specifications for Erosion & Sediment Control*. (Haybale erosion control is no longer an acceptable practice. Insufficient erosion control methods are shown on the plan.)
6. Board and applicant to discuss screening plantings.
7. Provide a calculation on the plan for the percentage of open space proposed for this parcel. Provide Open Space Notes per the application package.
8. In lieu of a jurisdictional determination from the Corps of Engineers, the Board has authorized its representative to verify the wetland delineation. Note the date of line verification on the plan.
9. Applicant to consider an irrevocable offer to the Town of a R.O.W. strip along Wawayanda Road. Show metes & bounds of the proposed dedication strip.

The following comment submitted by the Conservation Board, dated 2/6/08:

Tinnirello Subdivision - Since this site is in an aquifer overlay, Eljen type septic is recommended. When will site visit be scheduled?

The following comment submitted by the ARB, dated 2/6/08:

Tinnirello Subdivision - The use of a 70' radius cul-de-sac in this subdivision seems excessive, particularly considering that the driveway running off the cul-de-sac may be excessive for emergency vehicle access.

The ARB would like to see elevations and architectural drawings of the proposed homes for this subdivision, which will be very visible from the highway and surrounding neighborhoods.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has already declared itself Lead Agency on this application. We have been reviewing it with the short EAF. I have a CD here which addresses the next comment regarding revisions to the Resource Plan, 4-Step Process Plan and so forth. There are (2) PDF documents on the CD. One document is a guidance document that shows you how to go through the 4-Step Process. The other document is an example of a 4-Step Process that was undertaken successfully on another subdivision.

Rusty Tilton: I appreciate that.

A. Clarify Site Context Plan, Existing Resource Plan, and 4-Step Plans to the Town Planner's specifications.

Rusty Tilton: Ok.

Comment #2: Applicant to discuss project.

Rusty Tilton: Since our last submittal, we have made progress on the Site Context Plan and the Existing Resource Plan. On our next submittal, we will be focusing on developing our 4-Step plan to the Planner's specifications. Since the last meeting, we have submitted plans to be submitted to the NYSDOT. I know that happened a couple of weeks ago. We haven't heard back from them yet. We are waiting to hear their comments. Our proposed access does have limited sight distance in one direction. Once we get those comments, then we will be able to move forward with our cluster plan. At the last meeting, there were concerns about the presence of apple orchards. We have submitted historical aerial photographs from 1959 and 1974. We had discussions at the work session that it has been agreed that there are no concerns regarding the presence of an abandoned apple orchard. That is where we are at with the project.

**YIELD PLAN: (DATED 10/15/07, LAST REV 1/9/08)**

Comment #3: Provide percs & deeps witnessed by the Town Engineer and an engineered sanitary sewage disposal system or use the Environmental Control Formula (§164-41.3).

Rusty Tilton: Ok. Once the weather gets better, we will have Tectonic go out to the site and witness the soils.

**CLUSTER PLAN: (DATED 10/15/07, LAST REV 1/9/08)**

Comment #4: Provide percs & deeps witnessed by the Town Engineer and an engineered sanitary sewage disposal system. Include details for all features.

Rusty Tilton: Yes. We will do that at the same time with the yield plan witnessing.

Comment #5: Show suitable erosion control facilities, in accordance with the *NYS Standards and Specifications for Erosion & Sediment Control*. (Haybale erosion control is no longer an acceptable practice. Insufficient erosion control methods are shown on the plan.).

Rusty Tilton: No problem.

Comment #6: Board and applicant to discuss screening plantings.

Mr. Astorino: Are we getting ahead of us here?

Zen Wojcik: We discussed at the workshop because of the close proximity to a neighbor's house.

Mr. Astorino: Let us see the 4-Step Plan first to see where these plantings would be.

Mr. Bollenbach: We are giving you a heads up on this. It will probably be required.

Rusty Tilton: There is an existing tree line that adjoins the neighbor. We thought that at a site visit with the Planning Board, we could take a better look at it.

Mr. Astorino: Once we get the 4-Step Plan, then we could set it for a site visit. It is a little premature right now.

Mr. Bollenbach: Was there also discussion on that with the driveway construction you had grading proposed that would remove fencerow or the hedgerow?

Rusty Tilton: It was going to be close. One thing that we were considering was that we would be providing a 50-foot easement for the common drive and that if we possibly favored one side of the easement slightly that we could alleviate that concern and leave room for proposed screening.

Comment #7: Provide a calculation on the plan for the percentage of open space proposed for this parcel. Provide Open Space Notes per the application package.

Rusty Tilton: Ok.

Comment #8: In lieu of a jurisdictional determination from the Corps of Engineers, the Board has authorized its representative to verify the wetland delineation. Note the date of line verification on the plan.

Rusty Tilton: Ok.

Mr. Bollenbach: Was there construction proposed in the area of the wetlands? Was it close to them?

Rusty Tilton: It wasn't close. What we talked about at the last meeting, since there wasn't any construction proposed close to the wetlands, was the Town's representative could go and verify.

Mr. Bollenbach: I am just saying that in other cases if the wetlands are on the opposite side of the property and there is nothing remotely within that area, sometimes on a case-by-case basis that is not even required. It is up to the Board's discretion.

Rusty Tilton: We are not very close on the yield plan. It is possibly within 200 feet. We don't have a problem with this.

Mr. Singer: This is in an area that frequently floods. I would like to see it delineated.

Mr. Astorino: Yes. I agree.

Comment #9: Applicant to consider an irrevocable offer to the Town of a R.O.W. strip along Wawayanda Road. Show metes & bounds of the proposed dedication strip.

Rusty Tilton: No problem. We are on a State Highway. Would this be an appropriate time to forward this application to O.C. Planning?

Zen Wojcik: It has already been sent to O.C. Planning.

Rusty Tilton: Ok.

Mr. Astorino: You have stuff to do.

Rusty Tilton: Ok.

Mr. Astorino: We have a comment from the Conservation Board, dated 2/6/08. We have a comment from the ARB, dated 2/6/08.

Rusty Tilton: Thank you.

***Dawn and Douglas Itjen***

Application for sketch plat review for a proposed lot line change, situated on tax parcels S 64 B 3 L 4 and L 5; parcels located on the corner of Cascade Road and Cherry Tree Hill Road, in the CO zone, of the Town of Warwick. Previously discussed at the 6/7/06 Planning Board.

Representing the applicant: John McGloin, PLS.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
    - A. Planner to discuss Visual EAF and narrative.
  2. Applicant to discuss project.
  3. Provide the deed and the recording information on the map for the lot line change.
  4. FOR THE RECORD - A review of the *Soil Survey of Orange County, New York* indicates that the probable predominant soil type in the proposed developed area is HLD – Hollis soils, moderately steep (15%-35%) - a Group XII soil. Buildings shall not be constructed on these soils except in cases where 50% of the area where buildings are to be constructed is less than 15% slope.
    - a. The applicant has provided a satisfactory Geotechnical Investigation Report finding that the proposed dwelling would not be supported by the Group XII soils, but would have its foundation resting directly on and in the underlying solid bedrock.
  5. Place the geotechnical engineer's foundation recommendations on the plan as "Foundation Design Notes".
  6. According to §§164-40M and 46J(95), dwelling units in the CO zone require a 10,000 sf buildable area with less than a 15% slope. The parcel does not have a suitably sized contiguous area. Board to discuss referral to ZBA for variance.
  7. A 400' square shall be inscribed within each conforming lot in the CO zone, per §137-21K(1). The proposed lot line change will increase the area of Tax Lot 4 so that it conforms to the Code, but a 400' square cannot be inscribed within the Lot boundaries. Board to discuss referral to ZBA for variance.
  8. Show a 400' square within Tax Lot 5.
  9. Board and Applicant to discuss excessive grade ( $\pm 20\%$ ) of private road (Cherry Tree Hill Road) and potential improvements.
  10. Proposed Driveway Profile shows a maximum grade of 12%. Revise Note 7; Tax Lot 5 driveway must be paved in its entirety. Revise Code reference to "Section A168-19".
  11. Provide a Visual Cross-Section at the location of the proposed dwelling taken from Cherry Tree Hill Road
  12. Board to discuss site visit.
- BEFORE FINAL APPROVAL:**
13. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Private Road Use and Maintenance Agreement Notes.
  14. Surveyor to certify that iron rods have been set at all property corners.
  15. Pay parkland fees.
  16. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 2/6/08:

Dawn and Douglas Itjen - CB would like to see site and review Visual EAF. CB also notes that the applicant requires a variance to meet <15% slope requirement, along with 400 foot square. Cherry Hill Tree Road is very steep and dirt and rock wash into Cascade Road routinely so some improvement is indicated.

The following comment submitted by the ARB, dated 2/6/08:

Dawn and Douglas Itjen - The ARB would like to review the architectural drawings and elevations for the homes in this sensitive Ridgeline area.

Comment #1: Board to discuss SEQR.

A.) Planner to discuss Visual EAF and narrative.

Mr. Fink: The Planning Board has been reviewing this application using the short EAF. Because this is within the Ridgeline Overlay District, we are also in receipt of a Visual EAF Addendum. I believe there is a comment on this regarding discussing the Visual EAF. Some questions on the Visual EAF were not answered. Some of the questions were labeled as not applicable. But, there were other questions that were not answered. John, if you want to give me a call we could talk about it.

John McGloin: Yes.

Comment #2: Applicant to discuss project.

John McGloin: The Itjen's own (2) pieces of property. They own (2) tax lots. One lot is 5.2 acres and the other lot is 10.6 acres. He is proposing a lot line change. He proposes to construct a new dwelling on one of the existing lots.

Comment #3: Provide the deed and the recording information on the map for the lot line change.

John McGloin: We could do that.

Mr. Singer: How many acres would be for each lot?

John McGloin: The final areas would be 6.074 acres, increasing one of the lots to conform to code which it does not now. The other lot would be 9.802 acres.

Comment #4: FOR THE RECORD – A review of the *Soil Survey of Orange County, New York* indicates that the probable predominant soil type in the proposed developed area is HLD – Hollis soils, moderately steep (15%-35%) – a Group XII soil. Buildings shall not be constructed on these soils except in cases where 50% of the area where buildings are to be constructed is less than 15% slope.

- a) The applicant has provided a satisfactory Geotechnical Investigation Report finding that the proposed dwelling would not be supported by the Group XII soils, but would have its foundation resting directly on and in the underlying solid bedrock.

Mr. Astorino: Zen, are you happy with that?

Zen Wojcik: Yes.

Comment #5: Place the geotechnical engineer's foundation recommendations on the plan as "Foundation Design Notes".

John McGloin: We could do that.

Comment #6: According to §§164-40M and 46J(95), dwelling units in the CO zone require a 10,000 sf buildable area with less than a 15% slope. The parcel does not have a suitably sized contiguous area. Board to discuss referral to ZBA for variance.

John McGloin: It is a lot line change. The conditions are not being worsened by what we are proposing. It is a pre-existing lot. We are increasing a lot area on the front parcel. That particular change is not affecting the amount of slopes on the lot that are over 15%. It doesn't change it at all. The entire parcel is over 15%. My contention is that the lot line change is not changing that at all. It is not changing the condition of the lot whatsoever. That would be up to the Board for discussion. I think we will have to go for something else, too. But, that is besides the point. It is something to establish and decide. We are doing a lot line change. It doesn't require that you go to the ZBA when it doesn't affect the amount of slope over 15%. It is not affected at all. It is exactly the same before and after the lot line change.

Comment #7: A 400' square shall be inscribed within each conforming lot in the CO zone, per §137-21K(1). The proposed lot line change will increase the area of Tax Lot 4 so that it conforms to the Code, but a 400' square cannot be inscribed within the Lot boundaries. Board to discuss referral to ZBA for variance.

John McGloin: I have the same argument for that.

Mr. Bollenbach: Comment #7 refers to §137 which are under the subdivision criteria. The ZBA have the zoning section 164 zoning. The subdivision section would be up to the Planning Board to waive. The existing dwelling is increasing the lot area. Whatever is there is a pre-existing condition. The dwelling is already there. I would say that a waiver on that particular lot would be inappropriate. It is the other lot that is subject to discussion.

Mr. Astorino: That is the lot that we would discuss if it should go to the ZBA or not.

Mr. Bollenbach: That would be up to the Board's discretion.

Mr. Astorino: That is something the Board would have to kick around.

Mr. Bollenbach: We could do a favorable recommendation or what have you.

Mr. Astorino: We could discuss that at the work session on Monday night.

Comment #8: Show a 400' square within Tax Lot 5.

John McGloin: Yes.

Comment #9: Board and Applicant to discuss excessive grade ( $\pm 20\%$ ) of private road (Cherry Tree Hill Road) and potential improvements.

Mr. Astorino: The Board did have a discussion about this at the work session. If anyone wants to drive out there to see what is there, that would be good. Take a ride out there after a rainstorm to see what comes out onto Cascade Road. We will need some stabilization up there. That was what the Board discussed. We discussed asphalt to stabilize the road to make it passable.

John McGloin: Ok. Are we talking about stabilization to try to stop the runoff from coming into Cascade Road? Or, are we talking about trying to change the slope of the road?

Mr. Astorino: Either way that you would want to show it.

John McGloin: Ok. I will talk to Zen about it.

Mr. Bollenbach: We want to accomplish having a safer access off Cascade Road itself. The Board was talking about paving up to the second driveway entrance.

John McGloin: Ok.

Mr. Astorino: I think the Board would want to do a site visit. That would give a good heads-up on the condition of the road.

John McGloin: Sure. There is a house under construction at the end of this road. There is tremendous heavy truck traffic going up and down this road right now. They have been using it constantly. I witnessed a lumber truck go right up this road less than a month ago. I just wanted to bring that to the Board's attention.

Mr. Singer: What do you mean? What are you telling us?

John McGloin: I am telling you that the road is accessible and that it is being used by large trucks to get up and down by carrying lumber.

Mr. Astorino: What is the condition of the road?

John McGloin: The condition of the road is fine until you get past this lot. I think that a site visit would be a good idea to see what is happening there. There is truck traffic going up and down the road. They have a log rig up there.

Mr. Singer: He has the house all framed out. You won't see any more trucks going up there.

John McGloin: They will still be bringing in windows and insulation.

Mr. Singer: The windows are in.

John McGloin: I haven't been there recently. I guess you are checking it out.

Comment #10: Proposed Driveway Profile shows a maximum grade of 12%. Revise Note 7; Tax Lot 5 driveway must be paved in its entirety. Revise Code reference to "Section A168-19".

John McGloin: No problem.

Comment #11: Provide a Visual Cross-Section at the location of the proposed dwelling taken from Cherry Tree Hill Road.

John McGloin: I will talk to Ted about that. I will be happy to do it.

Comment #12: Board to discuss site visit.

Mr. Astorino: When would the Board want to do a site visit? We could discuss it Monday night at the work session.

Mr. Singer: Let's discuss it Monday night. Snow is predicted Sunday. You will not make it up there in the snow.

Mr. Astorino: It sounds like Mr. Singer knows the condition of the road.

Zen Wojcik: Concerning comment #11, at the workshop the Board wanted to have a cross section to have a better image of what the slope was there. That was the purpose for that.

John McGloin: Do you want me to give you a section starting at Cherry Tree Hill Road going up to the dwelling and through the dwelling on what it would look like?

Mr. Astorino: Yes.

Mr. McConnell: That was my comment because I don't have the experience of reading the lines on the map. It would make it simple for me.

John McGloin: Ok. I will do it based upon a rough idea of the floor elevation of the house. Again, you are trying to do something that you don't know how it would play out depending on the style of the house. I will attempt it. I will do the best I could.

Mr. McConnell: Good.

**BEFORE FINAL APPROVAL:**

Comment #13: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Private Road Use and Maintenance Agreement Notes.

John McGloin: We will do that if we could get a Private Road Use and Maintenance Agreement. We will give it a shot.

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

John McGloin: No problem.

Comment #15: Pay parkland fees.

John McGloin: We could do that.

Comment #16: Pay outstanding review fees.

John McGloin: We could do that.

Mr. Bollenbach: Is there a dedication strip needed on this?

John McGloin: I don't know about that. This is one of those things that if we try to do that we would make it close on the lot area. We tried to get it up above the 6-acre parcel. We could discuss that. I have concerns about that. We are only at 6.074 acres now. Where the house site is it is already cleared. I have a little concern with trying to kink the lot line around too much and to try to start over again with our grading and our geotechnical investigation and everything else. I will look at it. If I could kink it somehow to get the road dedication and the Board wants that, I could do that.

Mr. Bollenbach: Ben, maybe DPW could take a look at the road configuration if it is necessary for a dedication strip in that particular area or portions of it.

Mr. Astorino: Yes. We will take a look at that.

John McGloin: I would have to bend the line.

Mr. Astorino: We will set a site visit at the work session on Monday night. Get us those visual site profiles. We will go from there.

John McGloin: Ok.

Mr. Astorino: We have a Conservation Board comment, dated 2/6/08. We have a comment from the ARB, dated 2/6/08.

John McGloin: What about regarding the variances?

Mr. Astorino: We will discuss that at the work session on Monday night.

John McGloin: Ok. Thank you.

**Other Considerations:**

1. **The Fairgrounds, LLC.** – Letter from Lehman & Getz Engineering, dated 1/7/08 addressed to the Planning Board – in regards to the Fairgrounds project to discuss the proposed subsurface disposal of treated effluent from the wastewater treatment plant, and to obtain confirmation from the Planning Board that it does not constitute a significant change. Received Letter from Tim Miller Associates, dated 1/23/08, Received Supplement to the Aquifer Impact Assessment for the Fairgrounds Project. (Received on 1/24/08). Planning Board to discuss amending the Findings Statement.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Adrian Goddard from Goddard & Associates.

Mr. Astorino: Ted, do you want to comment on this? I know that you redlined the Findings Statement today.

Mr. Fink: Yes. I did. When the Planning Board adopted the Findings Statement on November 15, 2006, at that time the proposed sewage treatment plant discharge was proposed to outlet within an area that the DEC determined wasn't suitable for a surface water discharge. So, what happened was that the application to the DEC was amended and there was a proposal to create a subsurface discharge of the sewage treatment plant. In as situation like this, we took a look at the EIS. It included an Aquifer Impact Assessment. The Aquifer Impact Assessment did look at the potential impacts of the project on the pumping that would occur within the aquifer. Therefore, it examined the impacts on water quantity as a result of the pumping of the wells. It never looked at the possibility that there may be a discharge back into the groundwater as a result of the tertiary discharge to a subsurface system. Because this property is located within the Town's Aquifer Protection Overlay District, there is always the potential for any sewage treatment plant discharge to generate excessive nitrogen that would have the potential to pollute the aquifer. We asked the applicant to prepare supplemental Aquifer Impact Assessment based upon the analysis of the discharge to the ground. The applicant's engineer concluded that there would be no significant change. This was reviewed by Tectonic. I believe that Tectonic was in agreement with the applicant's revised plans. This is something that the DEC is currently reviewing. They will not take any action until the Planning Board has addressed the change or the project's modification that has occurred. There is a provision within the SEQR regulations §617.11A that states that there if there is a project modification that it would be appropriate to file an amended Findings Statement. That is what I have done. In the redline version, what I have done within the section that talks about procedural history of the SEQR review was to add a paragraph that discusses the modifications to proposed aquifer discharge that is proposed at this time. I have done other changes in the document that I thought was necessary. There were a quite a number of references within the document to a surface discharge. Associated with that, there were discussions of how impacts were mitigated on downstream water and so forth. That needed to be changed. There were also references in here to the Hanaford Supermarket. We know now from a recent meeting that a proposed Price Chopper has been proposed. There were selected areas in the document that needed to be changed to reflect this change. If the Planning Board agrees that the changes are appropriate, then what we would do is file this with all the other agencies that are involved with this project and most importantly to file it with the DEC. The DEC won't go any further in processing the application until they have this in hand.

Mr. Astorino: We will need a motion to amend the Findings Statement and to file it with all the appropriate agencies.

Mr. McConnell: When you talk about tertiary discharge is it accurate to say that the discharge is actually potable?

Mr. Fink: I don't know if it is potable. But, the discharge is the highest treatment levels.

Mr. McConnell: It is the highest that the State requires. So, it is far better than what my home septic system is discharging.

Mr. Fink: Yes.

**Mr. McConnell makes a motion on the Fairgrounds application to amend the Findings Statement and to file it with all the appropriate agencies.**

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

2. **Meadowbrook Farms/Nop #2** – Letter from Lanc & Tully, dated 1/16/08 addressed to the Planning Board in regards to requesting a 5<sup>th</sup> 6-Month Extension on Preliminary Approval for a proposed 33-Lot Subdivision, SBL # 29-1-65.12 & 63. Preliminary Approval was granted on, 8/3/05. The 5<sup>th</sup> 6-Month Extension becomes effective on, 2/3/08. *The applicant is still in the process of obtaining a necessary highway entrance permit from the OCDPW.*

Representing the applicant: Dave Higgins from Lanc & Tully Engineering.

Mr. Astorino: Before we do a motion on the 6-month extension for preliminary approval, we will have a discussion regarding the road entrance. Has the Board gone out there to see the flags?

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Astorino: Do you see the entrance where it is going to come in and loop around? The only problem that I have is that it would require some screening along the whole way to mitigate it.

Mr. Bollenbach: Ted, have you had a chance to go out there to look at it?

Mr. Fink: No. I did not have the chance to go out there today.

Mr. Singer: Were the flags at the center of the road or the edge?

Dave Higgins: The flags were at the center of the road.

Mr. Singer: That is a lot of screening.

Mr. Astorino: Yes. That is a lot of screening, but I would require it.

Mr. Singer: How long is that road?

Dave Higgins: I sent an email out. I don't know if everyone received it. What we intend to do is a cross section of this boulevard which is a 60-foot R.O.W.. It has (2) 10-foot travel lanes and 14-foot wide island in the middle. That island would have a grass surface. There would be street trees running down the center of that boulevard all the way down to the turnaround. You would have a couple of

openings so that if you wanted to make a U-turn, you could do that without having to go all the way down.

Mr. Singer: Down there, you would block the sight distance. It would have to be set back further.

Mr. Showalter: I was thinking the same thing.

Mr. Astorino: I agree. Looking at the map, what if we line it not so much closer to Union Corners Road to affect the sight distance, just line it right along and follow it up. Most of the view would be coming down from Union Corners Road this way looking at the new road. Over here on the map, you have the hillside. I don't know if that would affect the sight distance. That would be something that would have to be determined. On this side, there should be screening.

Mr. McConnell: It should be something to break it up.

Mr. Astorino: Exactly. I think that Ted will give us some ideas on some variety of trees.

Zen Wojcik: The sight distance is measured from a stop condition coming out at the end of the driveway. Driving down the road looking forward doesn't count.

Mr. Astorino: I am looking at it as aesthetics on that hillside. It is all opened now. You will be putting a road there. Let's screen it to the best extent practical.

Dave Higgins: Looking at the map, you want some screening all along here on the road.

Mr. Astorino: Yes. It is yet to be determined.

Zen Wojcik: One of the points when Mr. Higgins was making his presentation, he mentioned about (2) 10-foot lanes with a 14-foot wide island in the middle. This road by its nature would be a large disturbance on that hillside. The narrower that we could be this disturbance; the less of that hillside would be disturbed.

Mr. Astorino: Could we cut down on the island?

Zen Wojcik: You can cut down on the island. I would ask the Board if they would want to have something narrower there.

Mr. Astorino: I agree.

Mr. Bollenbach: That is something that is still a work in process. Ted, I believe we had some preliminary discussions. You had some reservations with the location of the higher elevation on the property.

Mr. Fink: Yes. If there was any way to be able to do it in a lower elevation, I know that you have the wetland and the wetland buffer... Have you had any discussions with the DEC? At one time, you would have been going through that wetland buffer. Now, you would be just skirting it if you were able to bring it closer.

Dave Higgins: What discussion with the DEC? I am trying to understand.

Mr. Fink: You have a DEC wetland and a 100-foot buffer.

Dave Higgins: Yes.

Mr. Fink: At one time, the road was going to be going through the wetland buffer and through a portion of the wetland. This would be now taking it completely out of the wetland.

Dave Higgins: Right.

Mr. Fink: If you were able to bring it further down the hill it would be whether or not the DEC would be favorable in reviewing that and issuing permits.

Dave Higgins: I think that the impact on the hill is set by the location at where we come in. You could make it come down a slight amount. Once you come into here, you would have to have a smooth transition in order to make the road here. We could provide a little bit of a bend and get a little bit closer. I would probably want to stay out of that.

Mr. Astorino: What would the benefit be coming closer to the wetlands? Would it be just lowering it on the hill?

Mr. Fink: Yes. Lower it down the hill.

Mr. Astorino: I don't know about that.

Dave Higgins: The impact on the hill, most of it would be right here.

Mr. Astorino: I am not crazy about that idea.

Mr. Singer: If you lower it, you would have lights going into the people's houses.

Mr. Astorino: Exactly.

Dave Higgins: If we turned it this way, then you would. We came in and made a nice smooth transition. We used a 100-foot radius on the road. We used the minimum and brought it straight through.

Mr. Singer: What would the slope be at the entrance?

Dave Higgins: We have done a profile. We have a -2%. That is why we have that cut in the hill. We have to come off a County Highway at a negative grade. We have a low point so that runoff wouldn't go onto the County Highway. After we go down through that 50 or 60 feet, we start to head up to the maximum grade 10%. The high point is roughly 400 feet down that road. Then, you would have a nice 1-1/2% downward grade most of the way down until we come up to the turnaround. The significant cut would be that first 250 feet. That is unavoidable. That is where we would have to come in.

Mr. Astorino: Zen, what about the width of the boulevard the center median? Did they say 14 feet? What if we cut that down to 10 feet? Would that be enough radius?

Zen Wojcik: The radius has nothing to do with the width of the median.

Mr. Astorino: You have those cut outs where people turn their cars to go in and out.

Zen Wojcik: The boulevard portion would end when it gets to the roundabout. We need a boulevard because it is two means of entrance that way. To have a median barrier, it would be for the Board to decide how wide they would like to have it. There is no standard for that. We have circumstances in the past where engineers have proposed using the median as part of their stormwater management plan. If that is the case, they might need additional width. They might need the 14 feet for that. If they using it just because they need spacing between the (2) lanes to reduce the amount of disturbance on that hillside, then 6 feet wouldn't be a bad idea.

Mr. McConnell: What is the minimum width you would need in order to take an average car to do a U-turn?

Dave Higgins: I think that a 30-foot radius would be the minimum.

Zen Wojcik: You would have a built-in U-turn if you go to the roundabout. Why have one in the middle?

Mr. McConnell: It would shorten on how far people would have to go.

Mr. Astorino: There is no driveway proposed at all there.

Dave Higgins: No.

Mr. Astorino: I would try to narrow the center section as much as practical. Is the Board in agreement with that?

Dave Higgins: That would work for us.

Mr. McConnell: I would like a turnaround.

Mr. Astorino: Is that the direction that the Board wants to give to them?

Mr. Bollenbach: Ted needs to go out and take a look at it. What you are looking for now is to alert the Board that there is a change in the access point onto the County Highway. They are stuck with that point. I believe the Board is in a consensus that is the spot. Thereon, the mitigation, details, and designs, that is a work in progress.

Dave Higgins: We started working on the revisions to the drainage and the SWPPP. We have done the grading plan and the profiles. We want to get this firmed up and back to your Board so we could get to the finish line here.

Mr. Astorino: Ok. Touch base with Ted and Zen. Get the appropriate materials in. That is the direction that the Board is leading to.

Dave Higgins: We ask to be set for a final public hearing as soon as possible.

Mr. Astorino: Zen, what else is left beside this issue with the road entrance in regards to setting this application for a final public hearing at the next available agenda?

Zen Wojcik: We gave comments to Mr. Higgins from his last submittal. A lot of it is housekeeping stuff. Things need to be updated to the Board's current standards. There are some small sub-comments. They are a lot of details. That is about it. If the Board wants to set this project for a public hearing, and if they come in and the Board is uncomfortable with that, we don't have to have a public hearing.

Mr. Astorino: I think that the point made which is a valid point regarding the road going behind those homes is a change for those residents over there. I think a public hearing would rest their fears. We should hear their input on it. I would recommend a motion to set this project for a final public hearing.

**Mr. McConnell makes a motion to set the Meadowbrook Farms / Nop 2 application for a Final Public Hearing at the next available agenda.**

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

Mr. Astorino: Now, we need a motion on the 6-month extension on the preliminary approval.

Mr. Kowal makes a motion on the Meadowbrook Farms / Nop 2 application, granting a 5<sup>th</sup> 6-Month Extension on Preliminary Approval for a proposed 33-Lot subdivision, SBL # 29-1-65.12 & 63. Preliminary approval was granted on, 8/3/05.

The 5<sup>th</sup> 6-Month extension becomes effective on, 2/3/08.

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

Dave Higgins: Thank you.

**3. Planning Board Minutes of 1/16/08** – for Planning Board Approval. (On 2/1/08 @ 3:45 p.m. – I emailed minutes to PB.).

Mr. Showalter makes a motion to Approve the Planning Board minutes of 1/16/08.

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

**Correspondences:**

- 1) Letter from Cipriano and Irene Neves, dated 1/23/08 addressed to Kirk Rother, Engineer – in regards to Ludmerer/Masker Fruit Farms, Inc regarding well testing scheduled for 1/30/08.

Mr. Astorino: We have that in our packets.

**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.

John Finn: This is in regards to the Rosenblatt #2 application. I invite you for coffee and tea to come down to my house and look up.

Mr. Astorino: We were out there. We have done a site visit. We do know that there are some issues with that project. We have stated those issues to the applicant this evening. We will proceed very cautiously.

John Finn: The biggest problem is the runoff. My fence is located here. The site is across the street. We have (3) beautiful terraces. They washed away. The guy behind me has a beautiful lot. He put a house on there. It got washed away in 1996. It is vacant because...100 years, 58 acres of water goes through it. Why bother?

Mr. Astorino: Mr. Singer had made a point that some lots are not buildable. We will see where it goes.

John Finn: Mrs. Rosenblatt bought that lot at a tax sale for \$2,600.00. She has lost.

Mr. Astorino: We will see where it goes. We are proceeding very cautiously on this. We know that it is in a sensitive area. As you have heard from the comments tonight, they have to prove to us that it could work.

John Finn: The DEC and everyone got involved in the whole project up there.

Mr. Astorino: There are many issues that they would have to work out.

John Finn: Thank you.

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

Adam Seiz and Juliet Garrett come before the Planning Board to speak on the agenda item of Rosenblatt #2.

Adam Seiz: We live directly across the street from the Rosenblatt site.

Juliet Garrett: We are very grateful to the Board for the opportunity to speak on this particular project. We had to live through one Rosenblatt construction.

Adam Seiz: We have suffered significant property damage that has never been abated. They knew what was going to happen before it ever took place. Our swale has been completely clogged by gravel from the previous construction up there, which made zero accommodation for drainage of any kind, eventhough they promised us in a very friendly and helpful way that that this was what they were going to do. They had asked me for permission to widen the swale in front of our place. I had this crazy idea that they would follow through on their requests and promises. They asked me for permission to do it. I believed that I could rely on their smiling faces and their good intentions. What happened was they dumped a large quantity of low-grade gravel the kind of stuff that you put underneath a driveway at the top of the hill. It has all washed into the existing swale. It is useless now. The water is now running on the outside of the swale heavy with gravel which has cut a hole in our driveway.

Mr. Showalter: Do you have some photographs that you could share?

Adam Seiz: I would be happy to provide those.

Mr. Astorino: This is the initial step of the project. Any correspondence that you wish to bring into the Planning office, you are more than welcome to submit that. We don't care about smiley faces here. They have to give us factual information. They have to prove to us. They have serious concerns and issues out there. It is the beginning of the process. What they do from here on out, we don't know. We will use caution on this as we always do with every application. The Board has been out to the site. We know about the concerns. We will proceed cautiously and make them adhere to every concern.

Adam Seiz: Thank you. Our major concern is the duplicity and the poor regard for the needs of the community. We have no recourse. We have suffered quite a bit of damage. It is ongoing. It just gets worse.

Mr. Astorino: We don't want that to happen. You are more than welcome to bring in any photos or correspondences to the Planning office.

Adam Seiz: Is it appropriate to submit that by email? Do you want printed materials? What would be the best way?

Mr. Astorino: If you have photos, bring them to the Planning office. If you want to email correspondences or if any resident wants to email correspondences to the Planning office, you could do so. We will take that.

Juliet Garrett: Up to this point, they have done some initial clearing up there. When we have heavy rains, the water is like a river.

Adam Seiz: There has been a complete change in the drainage pattern.

Mr. Astorino: I could make a note of that to the Building Department. We could send the Building Inspector out there to check that out.

Adam Seiz: The drainage was still adequate until they cut that road. The last season when we had the big rains the whole road was flooded out. The community president-Randy at that time-came up and took many photos of that. He is no longer the president. I don't know where his concerns are left.

Mr. Astorino: I will make a note of it to the Building Inspector to take a ride up there to see what clearing has been done. If you do have photos of the drainage pattern that has changed and it is washing out the road, I would take those photos, go to the Building Department yourself on a personal note, and file a complaint. You should let the Building Department know about that yourselves. You are more than welcome to submit any correspondence to the Planning office.

Mr. Bollenbach: There would be no need for you to file a formal complaint. Just bring the information in. We will process it.

Juliet Garrett: Ok. How could we know when this particular project will be up in front of the Board again?

Mr. Astorino: We have everything on the Town's website.

Mr. McConnell: When and if it becomes a public hearing, there will be a notice that you will get by mail.

Mr. Astorino: You will get that notice if you are within 300 feet of the project. If you want to follow the project, check the Town's website. I think this project is quite away from having a public hearing.

Connie Sardo: Our website address is "[townofwarwick.org](http://townofwarwick.org)".

Mr. Astorino: On that website, you will see our agendas. Our meetings are the 1<sup>st</sup> and 3<sup>rd</sup> Wednesdays of the month.

Adam Seiz: Thank you.

Juliet Garrett: Thank you.

John Finn: Could I present to the Board a 15 minute film that I made in 1996? I showed the Town Board on how much flooding we received down below from the top of the hill.

Zen Wojcik: Mr. Finn, the Board already has that.

John Finn: Ok.

Mr. Astorino: Is there anyone else in the audience 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 6, 2008 Planning Board meeting.**

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