

TOWN OF WARWICK PLANNING BOARD

February 18, 2009

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, February 18, 2009 at the Town Hall, 132 Kings Highway, Warwick, New York. Vice-Chairman, Roger Showalter called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

**PUBLIC HEARING OF Gary and Kathy Randall**

Application for Site Plan Approval for the construction and use to operate antennas on an existing camouflaged monopole wireless telecommunications tower along with an adjacent accessory equipment shelter and appurtenant cabling and equipment, entitled, *Verizon Wireless #2* situated on tax parcel S 19 B 1 L 47.21 ; project located on the southwestern side of Route 94 900 feet set back from Route 94 (Gary Randall property), in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Cliff Rohde, Attorney from Copper Erving & Savage, LLP. Paul Fanos from Infinigy Engineering & Survey.

Connie Sardo: Mr. Vice-Chairman, we have just received the certified mailings for the Verizon Wireless #2 public hearing.

Mr. Showalter: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Agricultural Notes.
4. The proposed limit of disturbance shows clearing of an existing wooded area and removal of up to 4 trees recently planted as screening landscaping. Show planting of up to 8 coniferous trees (which may include removed healthy trees) along with proposed topsoil and seeding in disturbed area, to the Town Planner's specification.
5. Provide a complete response to the Supplementary Comments dated January 14, 2009.
6. Board and applicant to discuss safety issues (Town Engineer's referral of Bechtel's January 26, 2009 letter) and winter maintenance (Building Inspector's February 6, 2009 memo) at monopine.
7. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 2/18/09:

Gary and Kathy Randall / Verizon Wireless #2 – None submitted.

The following comment submitted by the ARB, dated 2/18/09:

Gary and Kathy Randall / Verizon #2 - We have no comment on the Randall/Verizon application.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared itself Lead Agency. It is an Unlisted Action. We have been reviewing the application using the Short EAF to assess impacts. This represents a site plan application for an addition of antennas on an existing monopole. Also included in the application is some additional equipment on the ground. The potential visual impacts are the primary SEQR issues that we had looked at. The applicant has provided us with drawings illustrating what the addition of the new antennas would look like on the pole. Zen was also able to provide some of the original visual photo simulations that were done with the pole that was proposed originally. I have provided a photograph of the pole that was taken last summer. With this photograph, it gave everyone the opportunity to see what the pole looks like from Route 94, which is designated as a scenic road in the Town's Comprehensive Plan. The other issue under SEQR, which is still outstanding, was the potential impact on public health and safety. It was my understanding that the application has not yet been forwarded to the Florida Fire and Resue Officials. That item still needs to be addressed.

Mr. Showalter: We would have to get that to the proper people at the Florida Fire Department.

Connie Sardo: You need to send a letter along with a map to our emergency service providers.

Cliff Rohde: There was an emergency management plan that was done.

Connie Sardo: Right. But, this would go to our emergency service providers.

Mr. Bollenbach: They would like to have a copy of the plan also.

Cliff Rohde: Ok. We would be delighted to send them one.

Mr. Bollenbach: That should have been provided 3 years ago. It is supposed to be an ongoing obligation to maintain that.

Cliff Rohde: Ok. Presumably that was supposed to come from the tower owner. We would be happy to submit one. Who should it go to?

Connie Sardo: In your site plan application packet, there is a sample letter. It would go to the Florida Fire Department, Ambulance, and the Town of Warwick Police Department. You will need to send them a map along with a letter. Please copy the letters to me so that I know that you have sent it to them.

Cliff Rohde: Sure. Is that in the packet?

Connie Sardo: Yes. If you have any questions, don't hesitate to give me a call at the Planning office.

Cliff Rohde: Ok.

Comment #2: Applicant to discuss project.

Cliff Rohde: This is a straightforward project. We have identified a gap in coverage in the Town of Warwick. We seek to cover that gap. This presents one of those situations that would be ideal where there is an existing telecommunication tower that has space available on it. If we place our equipment on it, we would be able to fill the gap in coverage. There is an existing 100-foot monopine or a camouflaged monopole tower on the property of Gary and Kathy Randall. It is a T-Mobile tower. They are situated at the top of the monopine. I believe that Cellular One already has an approval. I believe they would be going on or they are already on the tower at 77± feet in height. Then, there would be space available to us at 87 feet. That would be where we would place our antennas on the tower.

Comment #3: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Agricultural Notes.

Cliff Rohde: Right. We were told at the last meeting in December that was a place marker for the Board. We have placed information related to the Ridgeline Overlay and Agricultural Overlay Districts on the plans. Is that what the Board is looking for?

Mr. Showalter: Zen, could you explain that process?

Zen Wojcik: Assuming that you receive approval somewhere down the line, it would have to be recorded. John, could you inform the applicant on what to do?

Mr. Bollenbach: Declarations were previously recorded for that particular property regarding the Ridgeline Overlay Notes and Agricultural Notes. It is a requirement that those notes need to be placed on the plan along with the recording information.

Cliff Rohde: Those notes have been placed on the plan.

Mr. Bollenbach: You need to show the liber and page.

Zen Wojcik: The recording information has not been shown on the plans.

Cliff Rohde: Do you just need the recording information?

Zen Wojcik: No. We need both items. The notes and the recording information need to be placed on the plans.

Cliff Rohde: Ok. You are saying that the notes are on the plans, but the recording information has not been placed on the plans.

Zen Wojcik: Right.

Cliff Rohde: Ok. No problem. We will modify the plans to include the recording information.

Comment #4: The proposed limit of disturbance shows clearing of an existing wooded area and removal of up to 4 trees recently planted as screening landscaping. Show planting of up to 8 coniferous trees (which may include removed healthy trees) along with proposed topsoil and seeding in disturbed area, to the Town Planner's specification.

Cliff Rohde: Paul, could you comment on that?

Paul Fanos: What would you like me to add?

Cliff Rohde: The way that the tower is setup and the way the property is that it is on, we need it because of our shelter, which is 12'x 30' foot shelter of additional space that is on the ground. Because of the slope of the land that the tower is on, we do need to extend beyond it. We would need to do some clearing and grading on the property. There is some indication in the plans regarding tree removal and tree replacement. If the Board wants additional trees, I don't know if there would be a particular place that you would like to see them. I will now turn it over to Paul about the trees themselves within that area.

Paul Fanos: In the area that we are showing that need clearing or removal, is because we are cutting into the side of a hill. We want to make sure we have proper soil sediment control and proper drainage. We propose to have trees placed adjacent to our shelter and fence. Since you are saying, you want up to 8 trees shown, do you want them shown at the rear of the fence as well?

Mr. Bollenbach: Ted, have you been out there to take a look at that?

Mr. Fink: The best plan would be to go out to the field and take a look at exactly what would be removed and try to assess visibility and what areas would need to be replanted.

Mr. Bollenbach: Ted, since Route 94 is a scenic corridor, perhaps some additional plantings along that Route 94 might offer additional visual buffering.

Cliff Rohde: I think where the site actually is, I am not sure that you could even see that from Route 94. You would know better than I. It is set off.

Mr. Bollenbach: I have a photograph that our Planner took that you could have.

Cliff Rohde: The grading is on the other side of the monopole from Route 94. The tree cover that you would see here, probably if it was summer or winter would likely camouflage any kind of plantings that we would do.

Paul Fanos: You can't see the ground equipment from this photo.

Zen Wojcik: Part of the Town's Regulations for the Ridgeline Overlay is planting up to 8-trees. That is what the Board is referring to in this comment. You show 3 or 4 trees to be

planted and a few trees to be removed. Along the slope, it would be a good place to put them. It would secure the slope.

Paul Fanos: Right.

Mr. McConnell: We are also talking about mitigating some of the visual impacts beyond stabilizing the slope.

Cliff Rohde: The land that we would be disturbing a little bit...

Mr. McConnell: This is not necessarily tied to the disturbance. That was the point. It is where the Town Planner thinks the best affect could be achieved.

Cliff Rohde: All right. We would be happy to learn the suggestions of the Planner.

Mr. McConnell: Ok.

Mr. Fink: Ok.

Mr. McConnell: Ted, would you go out into the field?

Mr. Fink: Yes.

Mr. Showalter: You could communicate with Ted and Zen on that. I think everything could be made proper.

Mr. McConnell: Mr. Vice-Chairman, could I ask a question?

Mr. Showalter: Yes.

Mr. McConnell: I am curious as to why the storage shed that you propose there is a 12'x30'? 360 square feet and 8 feet high, is a lot of cubic feet. What would be going in there that would occupy that much space that you would need to put up a shed that size?

Paul Fanos: There would be a combination of telecommunication equipment racks. There would be battery racks in there that would provide ample service to their equipment in any of the time that the power goes out and the generator would go on. The generator would be in the shelter.

Mr. McConnell: Is this in excess of what normally would be put there?

Cliff Rohde: We use that shelter size for every installation.

Mr. McConnell: Ok. The shelters that are there already, are they that size?

Zen Wojcik: There are no shelters there yet. They just have equipment racks out there.

Mr. McConnell: They are out in the open. Ok.

Cliff Rohde: I can't speak for what the other carriers do. But, that is what Verizon Wireless does.

Mr. McConnell: What I am concerned about is that you would end up using this as an excuse to locate equipment that is not connected to the monopole and use it as a facility that might otherwise require approval by us. How many square feet would be open when you are finished with this? I don't believe you would be occupying 360 square feet.

Cliff Rohde: I am trying to remember if we have plans that show the inside.

Paul Fanos: We don't show that.

Mr. McConnell: Have you seen them?

Paul Fanos: Yes.

Mr. McConnell: How big of an area is it?

Paul Fanos: It would be full. There would be 3-foot distance between each of the racks. You would also have at least 4 feet between the rack and the wall.

Mr. Showalter: You would have to be able to get people in there to work on that stuff.

Cliff Rohde: It allows two people to be in there at the same time.

Mr. Bollenbach: Ted, have they provided a color pallet? What color would you be using for the structure?

Mr. Fink: I don't think I have seen that yet.

Cliff Rohde: We had brought that to you the last time. I was debating if I should have brought it to tonight's meeting. I have not brought it with me tonight. The pallet that I have is from a provider that we don't use. It is really just a guide with the types of siding that we could put on the shelter.

Mr. Showalter: As I recall it, they were earth tones.

Cliff Rohde: We would conform to what the Town wants.

Mr. Bollenbach: If you could, please provide some samples of the color pallets. They would have to be less than 60% reflectivity.

Cliff Rohde: I could bring them in.

Mr. Bollenbach: You could mail them to us.

Cliff Rohde: Ok.

Comment #5: Provide a complete response to the Supplementary Comments dated January 14, 2009.

Cliff Rohde: Right. I don't have the response to that January 14<sup>th</sup> memo. We have been working on getting the information. We will have that as soon as it would be available.

Comment #6: Board and applicant to discuss safety issues (Town Engineer's referral of Bechtel's January 26, 2009 letter) and winter maintenance (Building Inspector's February 6, 2009 memo) at monopine.

Cliff Rohde: I would like to comment on comment #6 and #5 together. I was not aware of any of them. Comment #6, I have not seen a copy of those. These safety issues, I know the Board is concerned about them. To our mind, this would be more of a building issue than a planning issue. If the Board would consider this item as a contingency on an approval, we would be grateful. We will be providing structural information.

Mr. McConnell: Here, you could have a copy of them.

Cliff Rohde: Are there any particular items on this you would like to discuss? This is the first time we are seeing this.

Mr. Bollenbach: Zen, could you summarize that?

Zen Wojcik: Yes. Bechtel were the ones out there constructing Cellular One's facilities. They have found that the wind and ice that we have had this winter has knocked some of the branches down. We are very concerned about that. The Building Inspector went out there to inspect their facility and found holes in the fence that had been damaged by the fallen branches. We do have a structural report that was provided by T-Mobile when they built the pole saying that it was structurally sound. However, this seems to contradict that. Since you will be building on this tower and renting space, we would like to have you give this Board a response on what would be happening with this and to make sure it wouldn't happen again. The other thing is that the tower owner and/or tenants would be responsible for the maintenance of the access throughout the winter. This matter came up when the Building Inspector went to go to the site to look at things; the road was covered with ice and snow. It was not passable. There is a memo from the Building Inspector regarding that matter also. That would have to be addressed. The Town should be assured that they would be consistent with their maintenance. If emergency services had to go up there for a reason, we want to make sure they would be able to get through.

Cliff Rohde: Right. We will bring this to T-Mobile's attention.

Comment #7: Pay outstanding review fees.

Cliff Rohde: Yes.

Mr. Showalter: This is a public hearing. If there is anyone in the audience wishing to address the Gary and Kathy Randall / Verizon Wireless #2 application, please rise and state your name for the record. Let the record show no public comment.

Connie Sardo: Mr. Vice-Chairman, we received ARB comments, dated 2/18/09. The ARB had no comments. We did not receive any comments from the Conservation Board.

Mr. Bollenbach: At this time, we cannot close the public hearing because we cannot close SEQR. There are still some remaining issues under SEQR. Regarding the emergency services, we would have to provide them with 30 days for them to digest and get us a response. I suggest that the public hearing be adjourned to April 1, 2009.

**Mr. McConnell makes a motion to adjourn the Gary and Kathy Randall / Verizon Wireless #2 public hearing to the April 1, 2009 Planning Board meeting.**

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

Cliff Rohde: Thank you.

**Review of Submitted Maps:*****Warrick Fitzgerald***

Application for Site Plan Approval for the construction and use of decking to cover boat lift, replace existing deck material and install staircase from existing decking to backyard, located within "A Designated Protection Area" of Greenwood Lakes, situated on tax parcel S 76 B 1 L 40; project located on the western side of West Cove Road (25 West Cove Road), in the SM zone, of the Town of Warwick.

Representing the applicant: Wayne Reuvers and Gina Reuvers, representing Warrick Fitzgerald.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Provide a copy of the referenced survey map.
4. Place a graphic scale on each scaled drawing.
5. In the Overlay Protection Districts table, circle "yes" for Traditional Neighborhood Overlay District.
6. The area of the lot is noted incorrectly on the plan and application. The actual lot area, based on the deed, is 5372 sf (0.12 Ac). Calculate the total lot coverage (access drive + building footprint + parking area) and determine if it exceeds 35%. Board to consider directing applicant to ZBA for variances.
7. Show location of existing well and septic system. Board to consider septic dye test.
8. Place a Lighting Note on the plans: "All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures."
9. Provide photos of the site for the Planning Board's information.
10. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 2/18/09:

Warrick Fitzgerald – None submitted.

The following comment submitted by the ARB, dated 2/18/09:

Warrick Fitzgerald - The ARB would like to see elevations of the proposed addition to the Warrick Fitzgerald boat lift once issues have been resolved about size, location, etc. With the proposed schematics we would also like to see photos of the surrounding properties for a better idea of how this will fit into the lake and neighborhood.

Comment #1: Board to discuss SEQR.

Mr. Fink: We have received a short EAF from the applicant. There are some questions on whether or not a ZBA variance might be necessary. If the Planning Board directs the applicant to the ZBA, then we could take care of SEQR once the applicant comes back from the ZBA.

Mr. Bollenbach: Ted, what was that Zoning variance?

Mr. Fink: It is addressed in comment #6 tonight.

Mr. Bollenbach: Ok.

Comment #2: Applicant to discuss project.

Wayne Reuvers: Warrick Fitzgerald owns the house. I agreed to buy it from him some time ago. I own the piece of land next door that has no construction on it. Our goal was to merge the empty piece of land with the other piece of land with the house on it to make it one nice piece of property. I have signed a deal with Warrick Fitzgerald to buy the house from him. My goal was to take the boatlift that was there and turn it into a nice deck. I made the mistake on relying on my general contractor. He told me that we did not require any permission for this deck work on top of the boatlift. We were about to transfer the property and found out that we needed to meet these requirement. We are here tonight to go through the process and correct this matter. There was no excuse for this misunderstanding. We do apologize regarding this matter. What we have done was connected the deck from the house to the boatlift. The general contractor put up a bunch of wooden things between metal beams of the boatlift. He then put a deck on top of it along with a fence around it. I have some photographs to show you.

Connie Sardo: The Board does have copies of the photographs in their packets.

Mr. McConnell: Does the deck extend out over the water where the boatlift is?

Wayne Reuvers: Yes.

Mr. McConnell: The boatlift didn't originally have decking on top of it. It was just an open structure.

Wayne Reuvers: Yes. It just had high beams.

Mr. McConnell: It doesn't look very attractive.

Wayne Reuvers: It looks a lot better now.

Mr. Showalter: Do any Board members have any questions?

Mr. Kowal: You mentioned that you want to merge both properties together.

Wayne Reuvers: Yes. That would be our goal.

Mr. Kowal: If both properties are merged together, it would become one big lot. Would it still be 35% of the total lot coverage?

Mr. Bollenbach: I was just looking at that right now.

Zen Wojcik: Right now, the building is 37% of the lot that it is on.

Mr. Bollenbach: If it is merged with the adjoining lot, then that non-conformity would no longer exist.

Wayne Reuvers: It would end up being less than 12% of the total lot coverage.

Mr. Showalter: John, he would then not have to go to the ZBA.

Mr. Bollenbach: I am just looking at it quickly giving it a rough guess. It would increase the lot area of approximately 4 to 5 folds. If he merges the two pieces of property, he might be ok. It would have to be 35% maximum. This would definitely bring it to conformance.

Mr. McConnell: John, do we need to see a contract to show what his intent would be?

Wayne Reuvers: I would be happy to sign a condition.

Mr. Bollenbach: Yes. That could be one of the conditions of the approval where that lot line would be deleted. The lot line between the two parcels would be deleted, and provide proof of a requested merger.

Mr. Showalter: John, would that be a lot line change?

Mr. Bollenbach: With a merger of lots, that doesn't require a lot line change. It would not be a subdivision creating additional parcels. It would merely be a request to the Assessor's office to merge the two parcels. We would just need a copy of that letter. I would then receive a copy of the confirmation from the Assessor's office that yes; it would be merged into one parcel. You would receive only one tax bill. This would make the ZBA problem go away.

Wayne Reuvers: In terms of the process, we would need to transfer the house from Warrick Fitzgerald to us. Could we do the merging of the two properties before we do that?

Mr. Bollenbach: No. You would have to convey it.

Wayne Reuvers: Ok.

Mr. Bollenbach: I am assuming that the contract of sale would be conditioned upon that.

Wayne Reuvers: Yes. Our financing was the only thing that was holding us up. Our finance person was the one that brought it up to us about the violations.

Mr. Bollenbach: Ok. There was a title search done. This came up as a violation. You are here to cure the violation. As soon as the violation is cured, you would be able to convey the property and merge the lots.

Wayne Reuvers: Yes. I would be happy to sign a contract or note on this matter.

Mr. Bollenbach: That could be a condition of the approval.

Comment #3: Provide a copy of the referenced survey map.

Wayne Reuvers: We have it in this packet.

Zen Wojcik: No. We are talking about the map that was made for the property. It would have the surveyor's seal on it.

Wayne Reuvers: Ok. We will get that to you.

Comment #4: Place a graphic scale on each scaled drawing.

Wayne Reuvers: We have done that. It is in this new packet of stuff that I have brought with me tonight.

Mr. Bollenbach: You could give that packet to our Engineer.

Wayne Reuvers: Ok.

Comment #5: In the Overlay Protection Districts table, circle "yes" for Traditional Neighborhood Overlay District.

Wayne Reuvers: We have done that.

Comment #6: The area of the lot is noted incorrectly on the plan and application. The actual lot area, based on the deed, is 5372 sf (0.12 Ac). Calculate the total lot coverage (access drive + building footprint + parking area) and determine if it exceeds 35%. Board to consider directing applicant to ZBA for variances.

Mr. Showalter: Since we have found out you are looking to combine these two lots, John, could we strike comment #6?

Mr. Bollenbach: Yes. Comment #6 could be deleted.

Comment #7: Show location of existing well and septic system. Board to consider septic dye test.

Zen Wojcik: This project is located within "A Designated Protection Area" of Greenwood Lake. Part of the requirements in the Code is to have a dye test.

Mr. Showalter: You would need a dye test.

Zen Wojcik: Yes. We need to find out where the septic system is located.

Wayne Reuvers: That is stated in the new packet of information that I have just given you. Half of the septic system is located underneath the garage.

Zen Wojcik: We would need to have a dye test.

Mr. Bollenbach: You would contact our Engineer to arrange a septic dye test.

Wayne Reuvers: Ok.

Comment #8: Place a Lighting Note on the plans: "All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures."

Wayne Reuvers: We put that note on the plans. Also on the plans, we showed where all of the lights are located. All of the lights are 6.5 watt down lighting. With this design, it would keep it dark at night with a nice little glow.

Comment #9: Provide photos of the site for the Planning Board's information.

Wayne Reuvers: Yes. We have included that in the packets.

Mr. Showalter: Ok. Is everyone happy with the photos that we have just seen? Ok. That is good.

Comment #10: Pay outstanding review fees.

Gina Reuvers: Yes.

Mr. Bollenbach: Mr. McConnell, could you read the ARB comments?

Mr. McConnell: We have a comment from the ARB, dated 2/18/09 regarding they would like to see elevations of this project. We did not receive any comments from the Conservation Board.

Wayne Reuvers: In some of the plans, we show the elevations of the deck to the boatlift. We will answer this item as a separate issue to make it clearer.

Mr. Bollenbach: It looks nice. Would you want to be set for a public hearing? You would still have to take care of the dye test. Once you get back to us with the dye test and everything is acceptable, you could have a public hearing.

Wayne Reuvers: Yes.

**Mr. Kowal makes a motion to set the Warrick Fitzgerald application for a Site Plan Approval Public Hearing at the next available agenda.**

Seconded by Mr. Singer. Motion carried; 4-Ayes.

Connie Sardo: Once you get your information on the dye test, please submit to me the information along with a letter requesting what agenda you would like to be on for a public hearing.

Wayne Reuvers: Ok. Thank you.

Gina Reuvers: 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 and L 45.42; parcels located on the southeast side of NYS Route 94 1000 feet southwest of Wawayanda Road, in the RU zone, of the Town of Warwick. Previously discussed at the 2/6/08 Planning Board meeting.

Representing the applicant: Rusty Tilton, Engineer from New Horizon Engineering.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Clarify Site Context Plan to the Town Planner's specifications.
2. Applicant to discuss project.

**YIELD PLAN: (DATED 10/15/07, LAST REV 12/17/08)**

3. Perc test data for test hole #8 is irrelevant to the septic design. Either remove the information from the Yield Plan or note on the test results "Not used for design".
4. The title of the Bulk Table should be revised. A Yield Plan is not a conventional subdivision plan.

**CLUSTER PLAN: (DATED 10/15/07, LAST REV 12/17/08)**

5. The application is for a cluster subdivision. Applicant to respond to Town Code's criteria for a cluster subdivision (11 questions).
6. Plans should be prepared to meet the filing requirements of the Orange County Clerk. Density of shading should not be such that it obscures information on the plan.
- 7) Identify and locate percs & deeps on Cluster Lot #3. Show the location of test hole #8 and include this information on the plan. Include details for all features.
8. Show suitable erosion control facilities, in accordance with the *NYS Standards and Specifications for Erosion & Sediment Control*.
9. Board and applicant to discuss screening plantings.
10. Board and applicant to discuss flooding of brook on property.
11. 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.
12. Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, Common Driveway Use and Maintenance Agreement Notes, and Open Space Conservation Notes.

The following comment submitted by the Conservation Board, dated 2/18/09:

Tinnirello Subdivision – None submitted.

The following comment submitted by the ARB, dated 2/18/09:

Tinnirello Subdivision – We will withhold comment on the Tinnirello application until after Monday's site visit.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared itself Lead Agency on this application. It is an Unlisted Action. There are a few outstanding SEQR issues listed in the review comments tonight. We did receive a new submission of the 4-Step Process and Context Plan. We had talked about those plans at the workshop. At this point, I believe there is sufficient information for the Planning Board to schedule a field visit. If the Board wishes, we could do a field visit at one of our upcoming meetings.

Mr. Showalter: I believe we have a site visit scheduled.

Connie Sardo: Yes. The site visit has been scheduled for Monday, 2/23/09 @ 5:15 p.m..

A. Clarify Site Context Plan to the Town Planner's specifications.

Rusty Tilton: Ted and I met together back in September to go over the Site Context Plan, Existing Resource Plan, and the 4-Step Plan. We have revised the plans. We made special considerations to identifying secondary conservation areas that seemed to be lacking on the previous submittal. We have detailed the 4-Step Plan to address that comment.

Mr. Fink: The 4-Step Plan is clearer. The Site Context Plan, unfortunately the legibility was an issue. It was difficult to see some of the resources that were being mapped out because of the color of some of the labels that were on there.

Rusty Tilton: We will submit a better color copy of the Site Context Plan for the Board's files. Also at the work session, some issues came up about the planometric. We will make sure that would all be cleaned up.

Comment #2: Applicant to discuss project.

Rusty Tilton: This is an 11.5-acre piece of property that is currently 2 lots. The applicant is proposing to subdivide both pieces to create 3 lots. We are looking to utilize a cluster subdivision. The property fronts on Route 94. There are currently two access points that service the one existing home. We are going to be eliminating one of the access points that currently have insufficient sight distance. There will be one proposed access point off Route 94 that would be paired with the adjoiner to our north. Thereby, we would not be increasing the amount of access points onto Route 94. That would essentially be the project in a nutshell.

**YIELD PLAN: (DATED 10/15/07, LAST REV 12/17/08)**

Comment #3: Perc test data for test hole #8 is irrelevant to the septic design. Either remove the information from the Yield Plan or note on the test results "Not used for design".

Rusty Tilton: We will remove the information. We were trying to provide to give a flavor of the soils on the site. We will remove test hole #8 from the plan.

Comment #4: The title of the Bulk Table should be revised. A Yield Plan is not a conventional subdivision plan.

Rusty Tilton: No problem. We will revise.

**CLUSTER PLAN: (DATED 10/15/07, LAST REV 12/17/08)**

Comment #5: The application is for a cluster subdivision. Applicant to respond to Town Code's criteria for a cluster subdivision (11 questions).

Rusty Tilton: Ok.

Mr. Showalter: I believe one of the Board members have a list of the 11 questions.

Mr. McConnell: Stated below is from the Town Code §164-41.1.A that talks about the purposes of cluster subdivisions:

- (1) Does the cluster subdivision of this parcel provide greater economy, efficiency and convenience in the siting of services and infrastructure, including the opportunity to reduce road lengths, utility runs, and the amount of paving required compared to a conventional subdivision of the parcel?

Rusty Tilton: Yes. Our plan does accomplish this. We said that a conventional subdivision would have utilized the 30-foot private road. We would be utilizing a 16-foot shared driveway. We feel that would help make it efficient with less runoff and less asphalt.

- (2) Will the cluster subdivision conserve important open lands, including those areas containing unique and sensitive natural features, such as steep slopes, floodplains, stream corridors, and wetlands by permanently setting them aside from development?

Rusty Tilton: The property does contain stream corridors, floodplains, and wetlands. We have located the proposed homes as far away from those features as possible.

Mr. McConnell: Would those features definitely be in the open space?

Rusty Tilton: Yes. Those features would be part of the open space and permanently protected.

Mr. Fink: Ok. Rusty, could you talk a little bit about the proposed entrance driveway? That does cross a steep slope area.

Rusty Tilton: That is an exception. There is a small area of slopes greater than 15% that the entrance needs to cross. We chose to have the entrance located here. This would be located at the northern most property line. This was to pair it up with the driveway next-door. Also, we want to create as much open space as possible. This would set the 2 lots aside from the bulk of the remaining land. That was our purpose of traversing that slope.

- (3) Will the cluster subdivision protect areas of the Town with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations?

Rusty Tilton: Yes. It would be a smaller cluster subdivision. In total, we have 11.5 acres. When the property would be subdivided, the 2 new lots would occupy 2 acres. Each lot would be on an acre each. That would leave 9 acres of the remaining lot of which approximately 8 acres would be able to be had as it currently is. We would be able to maintain an agricultural operation on the property by clustering it in this fashion.

- (4) Does the proposed subdivision provide multiple options for landowners to minimize impacts on environmental resources and natural or cultural features such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings and sites, and fieldstone walls?

Rusty Tilton: We would be minimizing any impacts to any tree lines or wildlife habitats that the proposed lots are located out of the wetlands. We would maintain approximately 200-foot buffer to the Federal wetlands that are located in the back of the property. As far as any other features, it would be fairly an open piece of property. There are older buildings on the property. None of the buildings would be raised. There is no field stonewall that exists on the property.

- (5) Will the cluster subdivision create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and the potential to promote a strong neighborhood identity?

Rusty Tilton: The 2 proposed lots would directly front onto the open space. They would be located at the higher portion of the property. We would have direct visual access to the open space.

- (6) Does the proposed subdivision provide for a balanced range of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups and residential preferences, so that Warwick's population diversity may be maintained?

Rusty Tilton: We have 3 lots. Two of the lots would be at 1-acre. One lot would be at 9.5 acres. There is a range there that we provided. As far as the type of homes that would be constructed, I believe the purchasers of the individual lots would dictate the type of homes.

Mr. McConnell: We are not expecting this to have any inexpensive housing. That would not be the plan.

Rusty Tilton: No. That would not be the plan.

- (7) Does the proposed subdivision provide a reasonable setback for new development adjacent to lands in active farming due to potential incompatibility with nonfarm uses?

Rusty Tilton: Across the street from the project is an active agricultural operation. We have located the proposed dwellings 500 feet away from that operation.

- (8) Will the cluster subdivision implement policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Town's Comprehensive Plan, including provisions to create a greenway trail system and other areas for active or passive recreational use for the benefit of present and future residents?

Rusty Tilton: A small subdivision is proposed. We haven't proposed any recreation within the open space. It would probably be private to the owner of the 9.5-acre lot. We provided a 450-foot buffer off Route 94 to the first proposed dwelling. That would protect the viewshed of Route 94. That would be a benefit to everyone.

- (9) Will the cluster subdivision conserve scenic views and elements of the Town's rural character, and minimize perceived density, by limiting views of new development from existing roads?

Rusty Tilton: Same answer as before.

- (10) Does the proposed subdivision promote development in harmony with the goals and objectives of the Town's Comprehensive Plan?

Rusty Tilton: We feel that it is in harmony with the Town's Comprehensive Plan.

- (11) Does the proposed subdivision mitigate identified environmental impacts under the State Environmental Quality Review Act (SEQR)?

Rusty Tilton: The proposed construction would possibly have potential for erosion control issues. We are preparing a detailed erosion control plan to mitigate any possible affects from the proposed construction.

Mr. McConnell: Developing doesn't create less erosion.

Rusty Tilton: We are preparing a plan to mitigate soil erosion, which would be a potential environmental impact from the project.

Mr. McConnell: Ok. Thank you.

Mr. Showalter: Do any Board members have any questions on comment #5 in the 11-questions on a cluster subdivision?

Mr. Bollenbach: Do we have a consensus from the Planning Board that it complies?

Mr. Showalter: Yes.

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Bollenbach: Let the record reflect that we have a consensus from the Planning Board.

Mr. Showalter: I think that everyone is happy with the applicant's answers.

Mr. McConnell: I wouldn't say happy. I am satisfied.

Comment #6: Plans should be prepared to meet the filing requirements of the Orange County Clerk. Density of shading should not be such that it obscures information on the plan.

Rusty Tilton: We understand that. We will clarify that.

Comment #7: Identify and locate percs & deeps on Cluster Lot #3. Show the location of test hole #8 and include this information on the plan. Include details for all features.

Rusty Tilton: Ok. No problem. The septics have been designed at this point. We haven't prepared the construction details for that yet. We will address that comment.

Comment #8: Show suitable erosion control facilities, in accordance with the *NYS Standards and Specifications for Erosion & Sediment Control*.

Rusty Tilton: No problem. That plan will be forth coming. I just wanted to make sure the Board was ok with the location of the lots.

Mr. McConnell: That is why we will be doing a site visit.

Rusty Tilton: After the site visit, once we know where the proposed construction would be, we would complete that plan.

Mr. Showalter: Fantastic.

Comment #9: Board and applicant to discuss screening plantings.

Rusty Tilton: We thought that at the site visit we would take a look at that to see if there would be a necessity for any screening plantings.

Comment #10: Board and applicant to discuss flooding of brook on property.

Mr. Showalter: We will discuss that once we have the site visit.

Comment #11: 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: ERS Consultants delineated the wetland for us. We would have ERS Consultants get in touch with Ted's office once the weather warms up and we have some vegetation to observe. They would set up that site visit.

Mr. Bollenbach: What would the closest disturbance be to that line?

Rusty Tilton: The closest lot line would be...

Mr. Bollenbach: Not the lot line. I am talking about the construction disturbance of the site.

Rusty Tilton: It would be in excess of 100 feet. The closest lot line would be about 100 feet. Construction would be at least 150 feet.

Mr. Bollenbach: The Planning Board will need to take that into consideration when they are out at the site visit. It may look obvious that there is no construction proposed remotely near it.

Rusty Tilton: Ok.

Comment #12: Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, Common Driveway Use and Maintenance Agreement Notes, and Open Space Conservation Notes.

Rusty Tilton: Ok. No problem.

Mr. Kowal: We have a comment from the ARB, dated 2/18/09. There are no comments from the Conservation Board.

Mr. McConnell: John, do we need to add a comment here to state pay outstanding review fees?

Mr. Bollenbach: We would do that as the project moves along. This is just a sketch right now. Yes. Review fees would have to be current. If the escrow falls below 40% of the amount, the applicant would be notified to replenish the escrow prior to any further action by the Board.

Rusty Tilton: Ok.

Connie Sardo: The Board has been aware that there would be a site visit on Monday, 2/23/09 at 5:15 p.m.. You would be meeting at Route 94 at the Tinnirello house.

Rusty Tilton: We would be meeting at the site.

Mr. McConnell: We would be meeting at the red house.

Rusty Tilton: Yes. It is the red house located right on Route 94 south of Wawayanda Road.

Mr. McConnell: Ok.

Zen Wojcik: Does the Board want to set this application for a public hearing?

Mr. McConnell: Does the applicant request to be set for a public hearing at this point?

Mr. Bollenbach: Isn't it premature at this time?

Mr. Showalter: We need to do a site visit first.

Mr. Bollenbach: You might want to do the site visit first. Then, you could go from there. It would be up to the Board's discretion.

Rusty Tilton: Would it be possible to set the application for a public hearing? At the site visit, if you discover there were issues that needed more time to work out, we could postpone the public hearing.

Mr. Showalter: I think we should wait on setting this application for a public hearing until after we have the site visit. We would need to get more information from you. Connie, would you be in contact with them?

Connie Sardo: The applicant would have to send me revised plans including the Site Context, 4-Step Plan, etc... You could send that stuff to me at the next submittal. Once we have the information, then we would put you on another meeting to be set for a public hearing.

Rusty Tilton: Yes. Ok. Thank you.

***John Peruso Subdivision***

Application for Sketch Plat Approval of a proposed 1-Lot (**Major**) subdivision (noted as an "Omit" Lot on the prior subdivision map), situated on tax parcel S 33 B 2 L 12; parcel located on the southern side of Cedar Hill Drive 1200± feet southwest of Belcher Road, in the RU zone, of the Town of Warwick.

Representing the applicant: Kirk Rother, Engineer.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Surface runoff from the undeveloped lot is significant on the adjoining lot. Board and applicant to discuss local drainage and OCHD approved septic.
4. The lot was created as an omit lot of the Colonial Ridge Subdivision in the 1980s. All restrictive notes on the original approved plans shall be transferred to this application.
5. In the Bulk Requirements table, list the required and provided lot coverage.
6. Show the approximate limits of the tree line on the parcel. Note the location of any significant trees, per the checklist.
7. Provide field check of topography at critical locations (septic field, dwelling location) using a field verified reference point.
8. Provide soil map information.
9. Show the buildable area on the plan per §137-21A.

The following review comment submitted by the Conservation Board, dated 2/18/09:

John Peruso Subdivision – None submitted.

The following review comment submitted by the ARB, dated 2/18/09:

John Peruso Subdivision - Peruso application until further information about the site and the issues surrounding it can be reviewed and resolved.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has submitted a short EAF. It is an Unlisted Action. There are no other involved agencies. The Planning Board could go ahead and declare itself Lead Agency.

Mr. Kowal makes a motion for Lead Agency.

Seconded by Mr. McConnell. The following Resolution was carried 4-Ayes.

Resolution Establishing Lead Agency  
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Peruso Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by John Peruso for a  $\pm$  2.4 acre parcel of land located at Cedar Hill Drive, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 1/28/09 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted action, and

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

Whereas, after examining the EAF, the Planning Board has determined that there are other involved and/or federal agencies on this matter.

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Comment #2: Applicant to discuss project.

Kirk Rother: The application before the Board is for a proposed 1-lot subdivision of land that was created in 1983 as part of a map known as East Ridge Road Associates. That subdivision created 35 lots. Out of those 35 lots included were 10 lots that were identified on the map as "future subdivision lots". I was not involved in that project at that time. I presume that it was probably because of the soils on those lots were unable to be proven to the satisfaction of the OCHD. Since that time, another Engineering firm pursued Board of Health approval on this lot. They had found some suitable soils apparently for a proposed septic system. I do have a copy of that map. I will provide that map to the Planning Board. With that said, we are before the Board to go through the process of creating this lot as a permissible single-family residential building lot.

Comment #3: Surface runoff from the undeveloped lot is significant on the adjoining lot. Board and applicant to discuss local drainage and OCHD approved septic.

Kirk Rother: I know the Board expressed concerns raised by the public regarding drainage. We are in the process of putting together a topographic map of the larger area. Hopefully, we would have some answers on drainage at the next work session. Also, Mr. Bollenbach had indicated possibly some problems with drainage downstream. He had indicated something about the easements. I don't know if the easements were ever conveyed. What I do see on the filed subdivision map there were proposed drainage easements shown.

Mr. Bollenbach: They were proposed drainage easements. They were never conveyed or perfected. Maybe you could take a look at the condition of those drainage facilities. I don't know what condition those would be in.

Kirk Rother: Yes. We would take a look at that. I believe it would be more of a legal issue regarding those easements. They are now on private property. With regards to the septic system, when I last spoke to Zen about it, we did not have a definitive answer on how we would handle that. The Town of Warwick has not reviewed and approved the septic system. The Board of Health had approved that. My office has not done any soil tests on this property. I can't attest to the septic system myself. Somehow, we would agree or disagree on how we would handle that.

Zen Wojcik: Ok.

Mr. McConnell: John, what would the authority be on the OCHD to approve or not approve? Where do they come into the process for septic?

Mr. Bollenbach: I don't know how they got involved with this. They would usually entertain referrals from a Municipal Board.

Mr. McConnell: And only from a Municipal Board. Is that correct?

Mr. Bollenbach: Yes.

Mr. McConnell: This kind of has a creepy feeling.

Mr. Bollenbach: I have no idea how it transpired.

Kirk Rother: It is not unusual if a lot was created as part of a subdivision and it is an "omit" lot. You could then go directly to the Board of Health for approval of that lot.

Mr. McConnell: Is it not unusual?

Kirk Rother: No.

Mr. McConnell: Would that be in this Town?

Kirk Rother: It has been done in the Town of Monroe. I have never done it in the Town of Warwick.

Mr. McConnell: Ok.

Kirk Rother: As far as OCHD requiring referral from a municipality, it is not necessarily true if the lot was part of a filed map.

Mr. McConnell: Ok.

Comment #4: The lot was created as an omit lot of the Colonial Ridge Subdivision in the 1980s. All restrictive notes on the original approved plans shall be transferred to this application.

Kirk Rother: Right. I think the lot was actually created as part of the East Ridge Road Associates map. Whatever notes there are on the map, we would have no problem adding them to whatever is applicable to the plan. I did not really see any notes.

Comment #5: In the Bulk Requirements table, list the required and provided lot coverage.

Kirk Rother: Ok.

Comment #6: Show the approximate limits of the tree line on the parcel. Note the location of any significant trees, per the checklist.

Kirk Rother: Will do.

Comment #7: Provide field check of topography at critical locations (septic field, dwelling location) using a field verified reference point.

Kirk Rother: Ok. That comment is speaking to the fact that we are showing topo that is publically available from Orange County. We will supplement it a little bit.

Comment #8: Provide soil map information.

Kirk Rother: Will do.

Comment #9: Show the buildable area on the plan per §137-21A.

Kirk Rother: Right. We would show the 5000 square foot buildable area. No problem.

Mr. Showalter: Do any Board members or Professionals have any comments?

Mr. McConnell: Going back to comment #7, we don't know where the septic field is located.

Kirk Rother: We do know where it is located. On the plan, I show a box. Then, I refer it to the other map that shows the Board of Health approval.

Mr. McConnell: Ok.

Mr. Singer: We have a comment from the ARB, dated 2/18/09. There is no comment. We have not received any comments from the Conservation Board.

Mr. Showalter: That is it.

Kirk Rother: We will be back. Thank you.

**Other Considerations:**

**1. Marco Giovannoli Subdivision** – Letter from Lehman & Getz Engineering, dated 2/10/09 addressed to the Planning Board in regards to the Marco Giovannoli Subdivision – requesting a 6-Month Extension on Final Approval of a proposed 3-Lot Subdivision, SBL # 12-3-33. Final Approval was granted on 8/20/08. *The applicant is currently working on the declarations and other legal issues, and will need additional time to meet the conditions of approval.* 6-Month Extension becomes effective on, 2/20/09.

Mr. Bollenbach: The applicant's comment here states that they are currently working on the declarations and other legal issues. I have not seen any of that information.

Connie Sardo: This is what the applicant's engineer, Lehman & Getz is stating. They are preparing it. It still has to be submitted to you.

Mr. Bollenbach: Maybe they should come in and explain that.

Mr. McConnell: Yes. I would like them to come in and explain.

Connie Sardo: The other thing is that I have been speaking to the applicant, Mr. Giovannoli. Lehman & Getz had done the letter for the extension. Mr. Giovannoli had told me personally that he is having some economic issues. That is what is holding up the project right now. This is the applicant's first extension since their final approval was granted. If the Board could grant this 1<sup>st</sup> 6-month extension due to the economy problems, it would give the applicant a little more time on completing the conditions of final approval. I believe the applicant has been fair. He has been trying to complete the conditions of the approval.

Mr. Bollenbach: Connie has been in touch with him. I am just letting you know from my perspective that I haven't received anything.

Connie Sardo: The applicant is trying.

Mr. Kowal: To comply with your request, do we have to grant a 6-month extension? Could we just give them a 1-month extension to give them time to talk to you?

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

Mr. Kowal: What does the Board think?

Mr. McConnell: I agree with John. I would like to hear something other than this vague comment. If it is the case of economic issues, then ok. There would be no shame there. This seems like it is more like shifting it to our attorney. I would like the applicant to come and give us something more real. I like the idea of a 1-month extension. It would give them a chance to come and talk to us. Then, we could consider it done.

Mr. Showalter: Dennis, the only thing would be if he has a financial hardship, perhaps a 6-month extension would help him through it. He would be able to accumulate his funds and get everything done in another 6 months.

Mr. Singer: I agree. I would have no problems with giving the applicant a 6-month extension.

Mr. Kowal: Ok.

Mr. McConnell: I will defer. But, I would still like him to come and talk to us.

Mr. Showalter: Maybe, we could suggest that he discusses it with John and Connie. I do believe that we should grant him a 6-month extension based on the times that we are in right now. There are many people having tough times right now.

Mr. Singer makes a motion on the Marco Giovannoli Subdivision, granting a 6-Month Extension on Final Approval of a proposed 3-Lot subdivision, SBL # 12-3-33. Final Approval was granted on 8/20/08. The 6-Month Extension becomes effective on, 2/20/09.

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

- 2. Vaughan and Anne Wiles #2 Subdivision** – Letter from Lehman & Getz Engineering, dated 2/10/09 addressed to the Planning Board in regards to the Vaughan & Anne Wiles #2 Subdivision – requesting a 6-Month Extension on Final Approval of a proposed 4-Lot Conservation Density Subdivision, SBL # 26-1-1.225 & 71. Final Approval was granted on 9/17/08. *The applicant is close to submitting plans for final review prior to the Chairman's signature, but want to make sure that they don't allow their approval to lapse.* 6-Month Extension becomes effective on, 3/17/09.

Connie Sardo: They are close to submitting the final maps for final review and for the Chairman's signature. They should be submitting that any day.

Mr. McConnell makes a motion on the Vaughan & Anne Wiles #2 Subdivision, granting a 6-Month Extension on Final Approval of a proposed 4-Lot Conservation Density Subdivision, SBL # 26-1-1.225 & 71. Final Approval was granted on 9/17/08. The 6-Month Extension becomes effective on, 3/17/09.

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

- 3. Planning Board Minutes of 2/4/09** – Planning Board Minutes of 2/4/09 for Planning Board Approval.

Connie Sardo: Today earlier, I emailed to the Board the Planning Board Minutes of 2/4/09 for your reading pleasure. I don't know if any of the Board members had a chance to read the minutes today. If you did not have a chance to read them, we could put them on for the next meeting.

Mr. Showalter: I did not have a chance to read the minutes. Has the rest of the Board had a chance to read them?

Mr. Kowal: No.

Mr. McConnell: I read the minutes.

Mr. Singer: No.

Mr. Showalter: Ok. Let's put the minutes onto the next Planning Board meeting for approval. Also, Ben is not here tonight.

Connie Sardo: Ok. I will put the 2/4/09 Planning Board Minutes onto the next meeting.

### **Correspondences:**

1. Decision from Hon. Joseph G. Owen, Supreme Court of the State of New York – The Grange, LLC and Hambleton Hills HOA., Inc., against Town of Warwick Planning Board and Black Meadow Club, inc, dated 2/5/09.

Mr. Bollenbach: The Court upheld the Planning Board's Approval of the clearing and the fence permit. They have dismissed the Article 78 proceeding.

Mr. Showalter: Ok.

Mr. McConnell: Well done.

Mr. Showalter: Good work.

### **Privilege Of The Floor For Agenda Items!!**

Mr. Showalter: If there is anyone in the audience wishing to address any of the agenda items, please rise and state your name for the record.

James Dorsey: I live at 15 Cedar Hill Drive. My lot is adjacent on the eastern side of the John Peruso property that was just discussed earlier. I just wanted to bring to the Board's attention the concerns that I have regarding any building that would go on there. I have a series of photographs that shows drainage problems. That lot is not a little bit wet. It is a very wet lot. The photographs that I have were taken last March on a rainy day. There is a lot of moisture that comes off that lot. It all comes downhill onto my property. We have lived there for 10 years. We have suffered the consequences in the backyard and all the way down the swale along the side of the driveway. We were finally able to put in a retaining wall. We have been able to control that problem at least down to the wall. Most of that was taken care of. That was not really the complaint. The complaint would be that unless I know where that septic system would be put in, I am a concerned with something like this happening. This is not a 100-year rain. We have 5 or 6 of these happening every year. I know that there are many different ways of building things today. If that is the kind of moisture we are talking about coming off that lot, and we are downhill from that, it is a concern that I have. I just wanted to express that. Wherever that septic system is, it depends where that water would come from, it won't work appropriately.

Mr. McConnell: Mr. Dorsey, I don't know if you have seen the map. This is the map we are reviewing at this point. On the map, your property is located here. This is where the septic system would be.

James Dorsey: You could see where my wellhead is located.

Mr. McConnell: We also see where your house and nice brick patio is located.

James Dorsey: I have to tell you that I am worried about this. This lot has been vacant for 20 years since I have lived up there. There have been more holes dug in there. If a deer ran into there, they could break their legs. That was how many times this thing has been percolated.

Mr. McConnell: Or, attempted to be percolated.

James Dorsey: I am not familiar with the history of it. You would have all of that information. This is a concern that I have.

Mr. Showalter: Mr. McConnell had brought up this concern at our Work Session last Monday night. I have seen one of those pictures that you have shown us.

James Dorsey: The reason I took those photographs last May was because I was going to go back to Brian Brown and say what else could I do for the least amount of money to stop some of this. There is a second concern. It would not be a health concern like this one is. The concern would be on where that house would be located on that piece of property. Since that would be uphill from me, my house has been turned on the lot. Anything that would be behind me, they would be starring through my bedroom windows constantly. There would be no privacy.

Mr. Showalter: Mr. Dorsey, before anything would happen, there would be many steps the applicant would have to go through in order to get that to work.

James Dorsey: I know that the Board would have to provide screening or something like that.

Mr. Showalter: If anything would be done on that lot, it would have to rectify the water problem.

James Dorsey: Yes. The water would be something that would be there even if he doesn't decide to build. It would be something that I would have to address if I wanted to get it any better than what it is. That only happens about 5 or 6 times a year. But, when there would be a septic system up there, that would be a different thing all together. That would be my concern. That would be a health concern.

Mr. Showalter: I could assure you that this Board works for the good of everyone.

James Dorsey: I appreciate that. Thank you.

Mr. Showalter: If 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 18, 2009 Planning Board meeting.**

Seconded by Mr. Singer. Motion carried; 4-Ayes.