

TOWN OF WARWICK PLANNING BOARD

March 19, 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, March 19, 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 HEARING OF Kenneth Luft

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, of the Town of Warwick, County of Orange, State of New York. Preliminary Approval was granted on 5/17/06.

Representing the applicant: Kirk Rother, Engineer.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Luft public hearing.

Mr. Astorino: Thank you.

The review comments submitted by Tectonic:

1. Board to discuss SEQ.
 - A. Part III EAF explains there will be an impact on the Class 'C' stream. A Stream Disturbance Note on sheet 3/14 propose mitigation measures to ensure protection of stream.
 - B. Part I EAF states that blasting will be necessary. General Note 26 states that there will be "no blasting". Applicant and Board to discuss.
 - C. Applicant has connected open space along western edge of development to enhance wildlife habitat and mobility in the biodiversity area.
 - D. Town Planner to discuss narrative concerning preservation of habitat for the Red Headed Woodpecker, a NYS species of special concern.
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 1/28/2008)

4. Comments regarding the General Notes:
 - a. General Note #17 summarizes the Franklin Marble Construction Note shown in full elsewhere on this sheet. Rather than summarizing the full note, either refer to it in the General Notes or remove the summary.

- b. Applicant to discuss General Note #18.
 - c. General Note #19 duplicates the Lighting Note shown elsewhere on this sheet. Remove one of the notes.
 - d. General Note #21 is obscured by overlapping text. Clarify.
5. Design road pavement of future Town Road 'A' per §A168-21. Submit calculations for Town Engineer's review.
 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. A minimum 100 foot agricultural buffer, per §164-41.1G(4), is not shown on the plans.
 - B. Note that there shall be no clearing of trees or understory growth within the buffer.
 7. Applicant to discuss Engineering Report.
 8. Place a Private Road Note on the plans, to the Planning Board Attorney's specifications.
 9. Regarding Special Condition 100 (§164-46J(100)) – Affordable Housing: Applicant has submitted renderings, construction standards, and a marketing plan. Board to discuss.

BEFORE FINAL APPROVAL

10. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space.
11. Provide copies of the NOI and the signed final SWPPP.
12. 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, Radon Reduction Notes, and Affordable Housing Notes.
13. Petition the Town Board to establish a Drainage District for the maintenance of stormwater management facilities.
14. Provide irrevocable offer for road dedication for Road "A" for the Town Board's approval. Propose an acceptable road name and place on plans.
15. Applicant to provide 9-1-1 addressing.
16. Pay parkland fees.
17. Pay construction inspection fee and performance bond for proposed Town road, private road, Town road realignment, stormwater management facilities, and erosion control.
18. Pay a three-year landscape maintenance bond for stormwater pond landscaping, road bed reclamation at Newport Bridge/Blooms Corners Roads intersection and street trees.
19. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Kenneth Luft – None Submitted.

The following comment submitted by the ARB:

Kenneth Luft – None Submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board had issued a Negative Declaration on this application about a couple years ago. The Planning Board had granted preliminary approval back on 5/17/06. SEQR has been complied with.

- A. Part III EAF explains there will be an impact on the Class 'C' stream. A Stream Disturbance Note on sheet 3/14 propose mitigation measures to ensure protection of stream.

Kirk Rother: Ok.

- B. Part I EAF states that blasting will be necessary. General Note 26 states that there will be "no blasting". Applicant and Board to discuss.

Kirk Rother: There will be no blasting.

Mr. Astorino: We will reflect that. There will be no blasting.

- C. Applicant has connected open space along western edge of development to enhance wildlife habitat and mobility in the biodiversity area.

Kirk Rother: Yes.

- D. Town Planner to discuss narrative concerning preservation of habitat for the Red Headed Woodpecker, a NYS species of special concern.

Mr. Fink: The Negative Declaration that was issued by the Planning Board did have a provision in there that there would be additional assessment of the habitats prior to final approval. David Griggs from ERS Consultants had done a site survey. He looked specifically for the habitat for the Red Headed Woodpecker. He had found that there was habitat on the site. In his report, which he prepared and is dated March 4th, he discusses the habitat on the site that they prefer; habitat that consists of open woods with dead trees, dead hedgerow of tree, oak fields, and so forth. He indicated that some of the homes would be within these areas. It will reduce habitat but it is not going to eliminate habitat on the site. That was the assessment that was conducted by ERS Consultants.

Comment #2: Applicant to discuss project.

- A. Status of approvals.

Kirk Rother: The application is for a proposed 24-lot cluster subdivision. It is situated on approximately 79 acres of land. The project had received preliminary approval about 2 years ago. The only approval from outside agencies was from the OCHD, which we have secured.

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 1/28/2008)

Comment #4: Comments regarding the General Notes:

- a. General Note #17 summarizes the Franklin Marble Construction Note shown in full elsewhere on this sheet. Rather than summarizing the full note, either refer to it in the General Notes or remove the summary.

Kirk Rother: I have spoken to Zen earlier today about some of these notes. That particular note was asked by OCHD. We will leave that note the way it is.

Mr. Astorino: Zen, do you have a problem with that?

Zen Wojcik: I have no problem with it.

b. Applicant to discuss General Note #18.

Kirk Rother: It is a similar situation. It is a note that was requested by the OCHD that has to do with septic systems. It talks about the inspection of a specific septic being lot #18. That septic is slightly different from the other septic.

Mr. Astorino: That sounds like that note should also stay.

Kirk Rother: It is going to stay but I am going to append it to say see note on whatever sheet it is for the rest of the lots.

Zen Wojcik: Mr. Chairman, the concern was that as a standard of this Town, all of the septic systems that are installed have to be certified by a licensed engineer that they were installed to the plan. We just didn't want to have one noted. Someone might misinterpret that as meaning to say that the others don't have to be inspected. The note that Mr. Rother is referring to is note #2 on his other sheet that has all of his septic work, states that each septic has to be inspected by an engineer.

Mr. Astorino: Ok.

c. General Note #19 duplicates the Lighting Note shown elsewhere on this sheet. Remove one of the notes.

Kirk Rother: Will do.

d. General Note #21 is obscured by overlapping text. Clarify.

Kirk Rother: Yes.

Comment #5: Design road pavement of future Town Road 'A' per §A168-21. Submit calculations for Town Engineer's review.

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. A minimum 100 foot agricultural buffer, per §164-41.1G(4), is not shown on the plans.

Kirk Rother: We had at one point propose a fence that would be within the agricultural lands to maintain a 1-foot buffer. The sense from the Board was that was not desirable. We discussed putting in some stone cairns to identify the open space.

At one point, there was a remark that the agricultural land is owned and operated by the applicant. If the applicant doesn't want the buffer perhaps he wouldn't need it. At this point, it is my understanding that the Board would want the 100-foot buffer. In order to accommodate that, we would extend the cluster lots out whatever the requirement would be to give it 100 feet. The larger agricultural lots would get smaller.

Mr. Astorino: Yes. That is pretty much it. Is the Board in agreement with that?

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Astorino: Ok. You will need to reflect that on the plans.

B. Note that there shall be no clearing of trees or understory growth within the buffer.

Kirk Rother: Right. There is none. It is all fields.

Comment #7: Applicant to discuss Engineering Report.

Kirk Rother: That is a report that is submitted to the OCHD. It summarizes the project. It has the results of all water and soil tests. We have provided that to the Planning Board.

Comment #8: Place a Private Road Note on the plans, to the Planning Board Attorney's specifications.

Kirk Rother: Will do.

Comment #9: Regarding Special Condition 100 (§164-46J(100)) – Affordable Housing: Applicant has submitted renderings, construction standards, and a marketing plan. Board to discuss.

Mr. Astorino: I believe that the Board has copies of that. If not, we have copies of that in our packets tonight. It was emailed to us. At another work session, we will get into that a little deeper. We didn't discuss it much at the last work session.

Kirk Rother: The plan you have is basically duplication of the one that you had for Foxwood Estates.

Mr. Astorino: I am sure that the Planning Board wants to review it. We haven't discussed it as a Board yet.

Kirk Rother: I know that one item, pool #1 that plan describes it as residents and employees of the Town of Warwick. I understand that you just want that to be residents.

Mr. Astorino: The Board will have to hash it out before we could say what we want or don't want.

Kirk Rother: Ok.

BEFORE FINAL APPROVAL

Comment #10: 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.

Comment #11: Provide copies of the NOI and the signed final SWPPP.

Kirk Rother: Yes.

Comment #12: 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, Radon Reduction Notes, and Affordable Housing Notes.

Kirk Rother: Yes.

Comment #13: Petition the Town Board to establish a Drainage District for the maintenance of stormwater management facilities.

Kirk Rother: Yes.

Comment # 14: Provide irrevocable offer for road dedication for Road "A" for the Town Board's approval. Propose an acceptable road name and place on plans.

Kirk Rother: Ok.

Mr. Bollenbach: We also have dedication strips, easements, and the stub road.

Mr. Astorino: Ok. We will add that to comment #14.

Comment #15: Applicant to provide 9-1-1 addressing.

Kirk Rother: Yes.

Comment #16: Pay parkland fees.

Kirk Rother: Will do.

Comment #17: Pay construction inspection fee and performance bond for proposed Town road, private road, Town road realignment, stormwater management facilities, and erosion control.

Kirk Rother: Ok.

Comment #18: Pay a three-year landscape maintenance bond for stormwater pond landscaping, road bed reclamation at Newport Bridge/Blooms Corners Roads intersection and street trees.

Kirk Rother: Yes.

Comment #19: Pay outstanding review fees.

Kirk Rother: Yes.

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

Zen Wojcik: Regarding the dedication strip, if you look at the survey plan that was provided with the application, there is no need for a dedication strip. The property line does not go out into the adjoining roads.

Mr. Bollenbach: Let me take a look at that. There might be some difficulty with that abandonment portion. I don't know.

Kirk Rother: There will be a dedication strip for the future connection to the adjoining properties.

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

Mr. Bollenbach: Ben, I have one question. Regarding comment #5, design the road pavement, Kirk how far along are you? This is not a condition of approval. This has to be done prior to approval.

Kirk Rother: We have all the soil testing complete. We have given it to Zen. It is a question of what calculations he would be looking for to support those soil tests. It is not my area of expertise.

Mr. Bollenbach: Ok. The soil testing has been done. We need to find out what the results are.

Kirk Rother: The soil testing is done. Zen has the results.

Liz Fisher: I have a question about the plans themselves. There has been some consideration in terms of the location of the properties. There have been some changes made setting them back from our property. Has this been modified to reflect those changes?

Mr. Astorino: Yes. They added that open space quota along your property line with some screening required. That all came from the preliminary public hearing.

Liz Fisher: Ok.

Kirk Rother: As far as the configuration of the lots and the placement of houses, nothing has changed since preliminary approval. But, we did accommodate your request before the preliminary approval.

Mr. Astorino: That is reflected on the maps.

Liz Fisher: Lots 2 and 3 are the lots that concern us. I realize that this has been drawn out and has been given a lot of time and effort. I appreciate that. I am not going to talk about water or blasting.

Mr. Astorino: There will be no blasting.

Liz Fisher: Right. Regarding the height of the proposed homes, our home was built on a hill. We look out towards what would be the second story of a home. I don't know how high the homes would be.

Mr. Astorino: The maximum height would be 35 feet.

Liz Fisher: So, would the height of the lit rooms at night be below the top of the crest of the hill?

Kirk Rother: You would see the second story rooms.

Liz Fisher: There are some natural old growth pines that would potentially block that. You wouldn't even have to plant them if they were situated. I really can't tell.

Mr. Astorino: I don't believe that hedgerow would be taken out along that property line.

Liz Fisher: They are actually right in the only cleared part.

Mr. Astorino: I believe with that additional strip of open space, that would leave that whole area there against your property line.

Liz Fisher: Really?

Mr. Astorino: Yes.

Liz Fisher: Not in the back where it is flat. I am talking about high up on the ridge.

Liz Fisher and Kirk Rother take a look at the plans and discuss the height of the proposed homes, the trees, and the visibility. Mrs. Fisher wants the aesthetics of that to be taken into consideration. She doesn't want to be looking at the second story of the proposed homes.

Mr. Singer: Are there trees between your house and that house now?

Liz Fisher: There are some.

Mr. Astorino: They are going to put some mitigation plantings in also.

Mr. Bollenbach: Kirk, what sheet are those mitigation plantings on?

Kirk Rother: We don't have mitigation plantings.

Mr. Bollenbach: There weren't any within that area?

Kirk Rother: No. The blow up of this would be on sheet 3 of 14 as lots 1 and 12.

Mr. Astorino: Kirk, why don't you do this? You are leaving that open space section there. If there are some breaks in the natural hedgerow, why don't you add some trees? It is not a big area.

Kirk Rother: That red line that I have just drawn is about the tree line that is there now. Those (2) residences, we have moved forward about 50 feet from the original plan. We are adding a 100-foot conservation easement behind it.

Liz Fisher: The added trees would likely cover some of it naturally.

Mr. Astorino: I think you will see something. It is not going to put a wall up.

Mr. McConnell: It is not a fence.

Mr. Astorino: Exactly.

Liz Fisher: I know. I am just looking for some sort of an aesthetic consideration.

Mr. Astorino: We are leaving this buffer there. Whatever is there within that 100-foot buffer from that open space area will not be touched. It cannot be touched.

Mr. McConnell: Are you suggesting that within that 100-foot area there may be a clump of trees that would do a better job of shielding your view of the house?

Liz Fisher: Yes. If, it could be done.

Mr. McConnell: You are not asking to plant any more trees or anything else.

Kirk Rother: We are not going to touch any of the existing trees.

Mr. McConnell: I understand that. It is the positioning of the house she is asking about.

Mr. Astorino: The only problem with that is that this is not within the Ridgeline Overlay. The house site isn't fixed within that 20-foot window.

Mr. McConnell: Right.

Kirk Rother: We moved this down as much as we could. We have a stormwater management pond.

Mr. Showalter: Kirk, on that topographical map, it looks like it is pretty far down the hill.

Liz Fisher: I am level with it. I am way up there.

Mr. Bollenbach: Ted, maybe you could go out there and take a look. Kirk, get in touch with Ted to see if any mitigation plantings might be warranted.

Mr. Fink: I will.

Liz Fisher: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Luft subdivision?

Liz Fisher: I do have one other question. Regarding the open space, does it extend to anyone's property?

Mr. Astorino: I believe that it stays in the Luft zone at this time.

Mr. Bollenbach: There are open space areas on all of these lots.

Kirk Rother: The majority of the open space started out on two lots. It would have been the two agricultural lots. They were lots 23 and 24. Lot 23 would have the existing farmstead. Lot 24 would be another property that has frontage onto Blooms Corners Road. We added more easement particularly on the entire frontage on Mrs. Fisher's property. That is the open space that is segmented amongst the individual lots.

Mr. Bollenbach: Maybe that is one thing we could clarify. We should identify this as open space and maybe open space areas A,B, and C.

Kirk Rother: It is on the cover sheet.

Mr. Bollenbach: I am looking at sheet 3 of 14 in particular. It shows the lot 1 and lot 12 that we are talking about. It shows conservation easements. Maybe the verbiage could be changed so that it is consistent.

Kirk Rother: Everything that is hatched on that cover sheet is open space.

Liz Fisher: Who owns the open space?

Mr. Astorino: Whatever lots that are on the back side.

Liz Fisher: Let us take the 41 acres. Does that go to the farmhouse?

Mr. Astorino: That is the farm.

Liz Fisher: Nothing has changed. It is still as it is.

Mr. Astorino: It will still be agricultural. That is the Luft's at this point.

Mr. Showalter: Maybe it should be explained to her that on the open space on the particular lots that the open space is on, that resident cannot put up a shed, building, or put stuff up there. It would be left natural. It belongs to the lot. It belongs to the people who own that lot. They can't do anything with that. They could not put there a pool or another house. It is always to remain open naturally.

Mr. Astorino: You could see at lots 3 and 5 that they have a chunk of open space. They would be marked by stone cairns. They will all be marked out.

Liz Fisher: Lots 4 and 5 regarding their deeds...

Mr. Astorino: Their deeds would reflect the open space.

Liz Fisher: That easement or whatever it is would be what?

Mr. Astorino: That is on their property.

Mr. Showalter: They could not do anything with it.

Liz Fisher: The wetlands are on lot 12.

Mr. Astorino: Yes.

Liz Fisher: The 41 acres...

Mr. Astorino: It is the existing farmstead to remain.

Mr. Bollenbach: That would be lot 23.

Liz Fisher: Nothing would change. That would still be the Luft's farm from what we know today.

Mr. Showalter: That would be the Luft's farm.

Mr. Astorino: As of right now.

Liz Fisher: There is an understanding that would not be further developed.

Mr. Astorino: It can't be. It is deed restricted property.

Liz Fisher: What assurances do we have so that wouldn't happen?

Mr. Astorino: That would be in the deed's restrictions. That is the whole point of it. There is no further subdivision on the plan. It is a cluster plan.

Liz Fisher: Who would be monitoring the open space?

Mr. Bollenbach: You had a question about different uses in the open space area that would be kept open as open space, or a meadow, or wooded area, or used for as agricultural purposes... It cannot be further subdivided. As far as enforcement is concerned, the Town has an enforcement right and all of the lot owners within this subdivision have an enforcement right. The Building Department would also have an enforcement right. There would be notes placed on all of these lots with certain restrictions as to what structures could be placed in what areas. That is also why we are requiring stone cairns or stone monuments to be placed along the open space borders. That would make it easy for the Building Department or someone to observe whether the structure or the activity is within or without the areas of the open space.

Mr. Showalter: It is marked for that purpose.

Liz Fisher: Right. I don't care if kids come in. That wasn't really my issue. It was about further development. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Luft Subdivision?

Mr. Singer: Roger, you said that buildings could not be built. On this Luft piece open space A, it is zoned Agriculture. He could build accessory Ag buildings on the farm part.

Mr. Showalter: Right. On the farm part. Carl, what I was referring to was on those pieces on the back of those lots. They could not do anything there. That is specifically a no-no.

Mr. Bollenbach: It is not just lot 23. You also have lot 24. That has a large open space area. Even, lot 12 if they wanted to put up a barn for horse or what have you, they could. They would still be able to do that for agricultural uses. That would be the limitation.

Mr. Singer: Is area B also owned by the Luft's?

Mr. Bollenbach: Open space area B would be part of lot #12.

Mr. Singer: Is that Ag?

Mr. Bollenbach: That could be agricultural uses. Yes. That area B also encompasses a portion behind lot 1 and 2.

Mr. Singer: So, they could put accessory buildings there?

Mr. Bollenbach: Only for agricultural uses.

Mr. Astorino: You are not going to get accessory buildings on lot 1.

Mr. Bollenbach: They don't have the acreage for that.

Mr. Singer: But, you could put it on lot 12.

Mr. Bollenbach: Yes.

Mr. Astorino: If you could fit them. There are some wetlands on there.

Mr. Showalter: There is not much land there to do that.

Mr. Singer: My point is that you call this conservation easement. An easement has to be owned by somebody.

Mr. Bollenbach: Carl, that was why my last comment was to make it consistent to indicate it as open space areas as indicated on the cover sheet as opposed to conservation easement.

Mr. Astorino: Does the Board have anything further?

Mr. Bollenbach: Regarding comment #14, we also have a temporary cul-de-sac that is in the proximity of lot #15. The idea is that at such future time, a stub road may be developed and that cul-de-sac would be abandoned. However in the meantime, we would provide emergency access turnaround. Kirk, I believe that Road B is a private road. What we are requiring, as requested by the Assessor Department is that the lots be extended to the center of the road so that it does not become a separate parcel.

Kirk Rother: No problem.

Mr. Astorino: We will need to review the Marketing Plan. Ted, will you go out and take a look at the screening?

Mr. Fink: Yes.

Mr. Astorino: Kirk, you will have to get in touch with Zen on the road specifications.

Zen Wojcik: We do have some raw information. We do need a design. That is the point of it. That is what it says in the code.

Mr. Astorino: Kirk, get in touch with Zen.

Mr. Astorino: Is there anyone else wishing to address the Luft subdivision? Let the record show no further public comment.

Kirk Rother: Mr. Chairman, since SEQR has been closed, does the public hearing have to remain open or could the Board close the public hearing?

Mr. Bollenbach: The Board could close the public hearing. But, I think there are some concerns. There might be some reconfigurations on here.

Mr. Astorino: There is nothing major.

Mr. Bollenbach: We don't know yet. We need to get the soil testing back for the road. Would the road be reconfigured? That is the purpose of holding our decision open. It is up to the Board.

Mr. Astorino: We will leave the public hearing open.

Mr. Singer makes a motion to adjourn the Luft Public Hearing to the April 16, 2008 Planning Board meeting.

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

Mr. Bollenbach: Connie, was this re-noticed? Did we re-notice this the last time for corrective notification as Masanda-Luft?

Connie Sardo: No.

Mr. Bollenbach: Kirk, it will have to be re-noticed to include the owner of the property Masanda-Luft also known as the Kenneth Luft application.

Kirk Rother: Ok.

Mr. Astorino: The Luft public hearing will continue on April 16, 2008.

Kirk Rother: Thank you.

PUBLIC HEARING OF Estate of Baum c/o Kary Jablonka, Executor/Dayspring Community School, inc., c/o Lee A. Squires-Sussman

Application for preliminary approval of a proposed 11-Lot cluster subdivision (9-New Residential Lots), entitled "***Lands of Dayspring-Baum***", situated on tax parcels S 31 B 2 L 2 and L 8; parcels located on the southerly side of West Ridge Road 1000+ feet west of Route 94 and 17A in the MT zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the February 20, 2008 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. Planner to discuss line-of-sight analysis and Visual EAF.
2. Applicant to discuss project.

YIELD PLAN (6/25/03, LAST REVISED 11/17/07)

3. On the Yield Plan, the proposed septic system for Yield Lot #3 is within the 100-foot wide agricultural buffer (adjacent to SBL 31-2-66.2). Septic systems within agricultural buffers require a waiver from the Planning Board; no waivers are allowed on Yield Plans. Board accepted Yield Plan by consensus on December 19, 2007. Board and Applicant to discuss.

CLUSTER PLAN (11/9/04, LAST REVISED 2/27/08)

4. Board to discuss special approval of 14% roadway grade (Appendix E, ¶B(4)).
5. The applicant had submitted a Geotechnical Soil Evaluation Report. A supplemental report, responding to the Town Engineer's comments, was not submitted for review.
 - A. The Report notes that depth to rock is generally shallow, and that the top few inches of the rock may be rippable by an excavator. Applicant to supplement the Report with an additional discussion proposing the method of cut excavation, including an estimate of the amount of material to be so removed and the duration of the removal process.
 - B. The applicant has submitted a Blasting Plan. Revise the plan per the Town Engineer's comments.
6. Show the 100-foot wide agricultural buffer line across Lots 1, 2, & 11. Provide notes to the Planning Board Attorney's specifications. Board to discuss a waiver to maintain the clearing of the Lot #2 septic absorption field within the 100-foot agricultural buffer
7. Proposed guide rail on West Ridge Road alongside Pond 2A interferes with the outlet of the pond. Locate the guide rail per the *NYS DOT Highway Design Manual* and extend or modify the existing outlet culvert.
8. Existing runoff from the site is not adequately managed by existing stormwater facilities on West Ridge Road. Board and applicant to discuss Town Engineer's memo.
9. Place Driveway Notes 1-4 (ref. Standard Map Notes) on the plans. Driveways for Lots #2, #4, #5, #6, and #9 must be paved in their entirety and so listed in Note 4. Other lots shall be listed in Note 3.
10. Provide 12-month screening on the embankment of private road. Provide mitigation plantings (trees) along the Lot #7 back line and Ridgeline Overlay District plantings, to the Town Planner's specification.

11. Applicant requests a waiver from Ridgeline Overlay District restriction on building height, allowing 35 foot height. Board to discuss. Revise allowable building height in Bulk Table and reference that a waiver was granted by the Board.

BEFORE FINAL APPROVAL:

12. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Private Road and Drainage Use and Maintenance Agreement Notes, Open Space Notes and Drainage Easements.
13. Applicant to consider an irrevocable offer of dedication strip on West Ridge and Old Ridge Roads.
14. Petition the Town Board to establish a Drainage District for the maintenance of stormwater management facilities.
15. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at corners of open space.
16. Applicant to provide signed and sealed copy of the final revised SWPPP including a copy of the submitted NOI.
17. Provide 9-1-1 addressing.
18. Pay parkland fees.
19. Pay performance bond and construction inspection fee for road, stormwater management facilities, and erosion control. Pay 3-year landscape maintenance bond for mitigation, Ridgeline Overlay, screening and stormwater management facility plantings.
20. Pay outstanding review fees.

WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§A168 Appendix E ¶B (4)	Private road – special approval for maximum 14% grade.
§164-41.1G(4)	Agricultural buffer – waiver to allow clearing for and maintenance of a septic absorption field within the agricultural buffer for Lot #2.
§164-47.1F(2)	Ridgeline Overlay District – waiver from building height restriction, allowing maximum height of 35 feet.

The following comment submitted by the Conservation Board:

Dayspring-Baum Subdivision – None Submitted.

The following comment submitted by the ARB:

Dayspring-Baum Subdivision – None Submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board is Lead Agency on this application. We have been reviewing it with a long EAF. There are outstanding comments in the review comments that we will be going over tonight.

A. Planner to discuss line-of-sight analysis and Visual EAF.

Mr. Fink: Yes. We have received a line-of-sight analysis and Visual EAF from the applicant.

Comment #2: Applicant to discuss project.

Kirk Rother: The only change since the last meeting is that we have shortened the cul-de-sac to no longer require the waiver.

YIELD PLAN (6/25/03, LAST REVISED 11/17/07)

Comment #3: On the Yield Plan, the proposed septic system for Yield Lot #3 is within the 100-foot wide agricultural buffer (adjacent to SBL 31-2-66.2). Septic systems within agricultural buffers require a waiver from the Planning Board; no waivers are allowed on Yield Plans. Board accepted Yield Plan by consensus on December 19, 2007. Board and Applicant to discuss.

Mr. Astorino: You will have to make it comply on the yield plan.

Kirk Rother: The section of the code that Zen is referring to is for "open space standards for cluster subdivisions". It is unclear to me how the open space standard applies to a yield subdivision. I know this is not the place to debate it. I will either convince Mr. Bollenbach that I am right or I will move the septic system.

CLUSTER PLAN (11/9/04, LAST REVISED 2/27/08)

Comment #4: Board to discuss special approval of 14% roadway grade (Appendix E, ¶B(4)).

Kirk Rother: That has not changed.

Comment #5: The applicant had submitted a Geotechnical Soil Evaluation Report. A supplemental report, responding to the Town Engineer's comments, was not submitted for review.

A.) The Report notes that depth to rock is generally shallow, and that the top few inches of the rock may be rippable by an excavator. Applicant to supplement the Report with an additional discussion proposing the method of cut excavation, including an estimate of the amount of material to be so removed and the duration of the removal process.

Kirk Rother: There is a little bit of a miss-communication between myself and Zen. The method of excavation that we have been talking about is blasting. I have finally given Zen the blasting report from our Geotechnical Engineer. It included the cut and fill volume calculations. I spoke to Zen about it today. He brought up a point what if you only had to remove 6" of rock or 1' of rock in one area. You would be more likely to hammer that than blast. I will prepare another paragraph describing the fact that there may be some hammering in shallow areas.

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

Zen Wojcik: Ok.

B. The applicant has submitted a Blasting Plan. Revise the plan per the Town Engineer's comments.

Mr. Astorino: You will be discussing that with Zen.

Kirk Rother: Yes.

Comment #6: Show the 100-foot wide agricultural buffer line across Lots 1, 2, & 11. Provide notes to the Planning Board Attorney's specifications. Board to discuss a waiver to maintain the clearing of the Lot #2 septic absorption field within the 100-foot agricultural buffer.

Kirk Rother: Yes.

Comment #7: Proposed guide rail on West Ridge Road alongside Pond 2A interferes with the outlet of the pond. Locate the guide rail per the *NYS DOT Highway Design Manual* and extend or modify the existing outlet culvert.

Kirk Rother: Will do.

Comment #8: Existing runoff from the site is not adequately managed by existing stormwater facilities on West Ridge Road. Board and applicant to discuss Town Engineer's memo.

Mr. Astorino: Zen, could you go through that?

Zen Wojcik: Yes. At the last public hearing, Mr. and Mrs. Nash came up to the Board. They asked the Board to take a look at the site. There was a lot of water coming off the hillside. It was at the end of winter where it was cold at night. I went out to the site, you went out to the site, and Mr. Butler went out to the site. Mr. Butler from Tectonic wrote a Memo, dated 3/18/08 addressed to the Planning Board. The memo is stated as follow:

MEMORANDUM

TO: T/Warwick Planning Board
FROM: Edward S. Butler, P.E.
Warwick - Town Engineer
SUBJECT: W.O. # 532.03
Dayspring / Baum Subdivision
DATE: March 18, 2008

I visited the entrance to the current subdivision application, with the Commissioner of Public Works, to understand concerns about runoff from the property onto and across West Ridge Road.

It is apparent that point discharges of stormwater runoff occur onto the Town roadway.

There will be significant changes to the drainage patterns on the site, if this application is approved, it may include elimination of an existing dirt driveway that does contribute a significant portion of the flow, and a new roadway intersection. I want express my concern that adequate consideration be given to elimination of any point discharge onto the Town roadway.

Mr. Astorino: Ok.

Zen Wojcik: What we have there is water coming off the hillside carrying onto the existing driveway. Mr. Rother's plan for stormwater management, most of that water that is coming down the driveway right now would be intercepted by going into the pond at the bottom. However, the other half of the property the water comes right off the hillside and goes onto the road. The rock is right at the edge of the road. There is no place for the water to go there. The

Nash's had commented at the first public hearing that there is a lot of water coming into their pond. There is another pipe that goes across the road into a wetland that is on their property. They would prefer water to go into that pipe rather than additional water going into the pond. I took a look at it. I could see what they are talking about. Perhaps the Board could recommend a supplemental drainage system be constructed below the R.O.W. of West Ridge Road. Part of this project feeding into that pipe that goes into the wetland area, we could talk about this with Mr. Rother. Maybe, he would have some recommendations. We will see what he comes up with.

Mr. Astorino: That was one of my recommendations while we were out there.

Kirk Rother: We are altering 75% of the frontage with our design as it is. The only area that remains to be discussed is that 75 feet to the west.

Mr. Astorino: We will add some basins to catch that.

Mr. Bollenbach: It would collect the rest of that water and discharge that into the pipe area that is below the Nash's pond.

Mr. Astorino: Yes. Get in touch with Zen about this.

Comment #9: Place Driveway Notes 1-4 (ref. Standard Map Notes) on the plans. Driveways for Lots #2, #4, #5, #6, and #9 must be paved in their entirety and so listed in Note 4. Other lots shall be listed in Note 3.

Kirk Rother: Ok.

Comment #10: Provide 12-month screening on the embankment of private road. Provide mitigation plantings (trees) along the Lot #7 back line and Ridgeline Overlay District plantings, to the Town Planner's specification.

Kirk Rother: Ok.

Comment #11: Applicant requests a waiver from Ridgeline Overlay District restriction on building height, allowing 35 foot height. Board to discuss. Revise allowable building height in Bulk Table and reference that a waiver was granted by the Board.

Mr. Astorino: That goes back to the Visual Analysis.

Mr. Fink: Yes.

Mr. Bollenbach: Ted, are you satisfied with that?

Mr. Fink: Yes. The way that Kirk showed it was that there was a significant amount of topography and vegetation that appeared to screen. There were (3) points where the line –of

sight profiles were prepared. It does show that the sight by those characteristics the topography and the vegetation would screen the view from the road.

Mr. Bollenbach: Wasn't there some supplemental planting proposed on that Visual Analysis?

Mr. McConnell: Yes. It was because of the one line-of sight and the cuts to the road.

Mr. Astorino: It was along the road. Is that correct?

Mr. McConnell: Yes.

Mr. Bollenbach: It is around the bend.

Mr. Fink: Yes.

Kirk Rother: I think we have shown the one line-of-sight to West Ridge Road. You could see the house on lot 5. We are talking about doing plantings on lot 5, which is located in the Ridgeline Overlay anyway.

BEFORE FINAL APPROVAL:

Comment #12: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Private Road and Drainage Use and Maintenance Agreement Notes, Open Space Notes and Drainage Easements.

Kirk Rother: Ok. Mr. Chairman, I am ok with the rest of the comments.

Mr. Astorino: We will list comments 12 through 20 for the record.

Mr. Bollenbach: This also has a temporary cul-de-sac. Add that to comment #13, applicant to provide dedication strip and temporary cul-de-sac and stub road.

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

Mr. Singer: Regarding comment #6, it states Board to discuss a waiver to maintain the clearing of the lot #2 septic absorption field within the 100-foot agricultural buffer. Explain to me what you are talking about.

Mr. Astorino: If they put a septic in the Ag buffer, there is no clearing there. We would have to give them a waiver to clear to make sure the septic system functions properly.

Mr. Singer: Why do we want them to put a septic in the Ag buffer?

Mr. Bollenbach: In this particular case, there is additional land on the adjoining Ag parcel on the Sanford property that is rather steep and a wooded area. It provides the adequate buffer. I believe the Board had previously discussed that issue.

Mr. Astorino: We had discussed this at a work session.

Kirk Rother: This particular lot is the best spot for septic as far as the soil.

Mr. Singer: How much clearing will take place there?

Kirk Rother: It would be within the area of the leachfield and the pipe going to it. It may be more or less ¼-acre.

Mr. Astorino: Do any Board members or Professionals have anything else?

Mr. Bollenbach: For the private road, continue the lot lines to the center of the road.

Comment #13: Applicant to consider an irrevocable offer of dedication strip on West Ridge and Old Ridge Roads.

Comment #14: Petition the Town Board to establish a Drainage District for the maintenance of stormwater management facilities.

Comment #15: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at corners of open space.

Comment #16: Applicant to provide signed and sealed copy of the final revised SWPPP including a copy of the submitted NOI.

Comment #17: Provide 9-1-1 addressing.

Comment #18: Pay parkland fees.

Comment #19: Pay performance bond and construction inspection fee for road, stormwater management facilities, and erosion control. Pay 3-year landscape maintenance bond for mitigation, Ridgeline Overlay, screening and stormwater management facility plantings.

Comment #20: Pay outstanding review fees.

WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§A168 Appendix E ¶B (4)	Private road – special approval for maximum 14% grade.
§164-41.1G(4)	Agricultural buffer – waiver to allow clearing for and maintenance of a septic absorption field within the agricultural buffer for Lot #2.
§164-47.1F(2)	Ridgeline Overlay District – waiver from building height restriction, allowing maximum height of 35 feet.

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

Dottie Rinaldi: Mr. Bollenbach had said that there is a farm where this development going to be. That is our farm. One little glitch that you were talking about was about the buffer zone that is not being actively farmed. It is not being actively farmed right this second. But, we are going to put cows up there. Shade is important to have for the cows for their health. There will be cows there. It will be active. We do need the shade.

Mr. Singer: Regarding the shade, are you talking about the shade coming from the trees from this property?

Mr. Singer: You have enough shade trees on your own property.

John Sanford: Yes.

Dottie Rinaldi: That is the buffer zone.

Mr. Astorino: Yes.

Dottie Rinaldi: Ok. That will be actively farmed. That was a little glitch. How many lots will be there?

Mr. Astorino: There will be 9 new lots.

Dottie Rinaldi: Will there be 9 new houses?

Mr. Astorino: Yes.

Dottie Rinaldi: There will be kids with 4-Wheelers. How could I be sure that these people will not be 4 wheeling onto our property? What could we do or build to make it difficult for them to come over there?

Mr. Astorino: What we have done on other applications is a fence.

Mr. Bollenbach: You might want to consider a chain-link fence.

Dottie Rinaldi: I need to have something beefy.

Mr. Bollenbach: Perhaps you could have a chain-link fence like the project Black Meadow Club will have. It was a vinyl clad chain-link black fence that we approved on Black Meadow Club.

Dottie Rinaldi: I don't want damage done to our fence or to our animals. I don't want anybody to get hurt on my property or Pop's property. We want to deter any trespassing of ATV's and things like that. Right now, we use an electric fence. I don't want anybody to go near that either. This is to protect other folks and our livestock. I want to make sure there is a good barrier between those folks and our operation. What kind of fence were you talking about?

Mr. Astorino: We have done numerous fences on different projects. Some of them were split rail with a cattle wire. Maybe in your situation, you might require something a little different than that. You might want more like a chain-link fence. John, the only question I have with that is if we are going to blow through the Ag buffer on the property line, you will be taking some trees down.

Zen Wojcik: There is a stonewall located along there. You could put the fence along one side of the stonewall.

Mr. Astorino: Ok.

Mr. Singer: You said that you have an electric fence there now, isn't that enough to keep the trespassers off?

Dottie Rinaldi: No. First off, you wouldn't want to touch that fence. If you touched it, you would be knocked off onto your but about ten yards. That would be bad. Then, the kids would be crying to their mother that they got hurt. Then, they would be calling me.

Mr. Astorino: We will look into a fence along your property line.

Mr. Singer: If there is a fence and she has an electric fence, I would think the fence would have to be in from the property line.

Mr. Astorino: Zen had just pointed out about the stonewall. It could be placed on the opposite side of the stonewall. I am sure your fence is not right on the stonewall anyhow.

Dottie Rinaldi: No.

Mr. Astorino: That is something we could take a look at.

Dottie Rinaldi: What about hunters?

Mr. Astorino: They would still have to follow the DEC requirements which is 500 feet from any dwelling.

Dottie Rinaldi: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Dayspring-Baum application?

Frank Compitello, Sr. and Frank Compitello, Jr., come before the Planning Board to address their concerns on the Dayspring-Baum application.

Frank Compitello, Sr.: Regarding comment #8, what did we learn about the runoff?

Mr. Astorino: We will fix it. That is what we learned about it.

Frank Compitello, Jr.: We are very concerned about it. I have brought some photographs for the Board.

Mr. Astorino: It has not been fixed yet. Nothing has been done yet. They still have to get their approval to go ahead and do this. We understand that there is a problem. We have seen this. It will be taken care of. That is why it was brought to the Board's attention. We went out there. The Nash's had a point. You have a point. It will not be done overnight. It will be done within the timeframe of the project. They still have some time to go before this project gets approved. Once they get their approval and their building permits, then they will start the work on the road.

Frank Compitello, Sr.: We were wondering if some clearing had been done?

Frank Compitello, Jr.: It seems like the runoff has escalated.

Mr. Astorino: When we have these heavy rains, there are many driveways in the Town that are like this. There are situations like this. But, when they do come before this Board, we are correcting them.

Frank Compitello, Jr.: This photograph was taken from my mailbox. It is starting to get quite a rut here on the road. We are concerned that it might start to erode.

Mr. Astorino: All of this will be taken care of.

Frank Compitello, Sr.: We can't drive out to the mailbox.

Mr. Astorino: We understand.

Frank Compitello, Jr.: Regarding supplemental planting, at the last meeting there was a thing about planting along the border of our property.

Mr. Showalter: We discussed that in detail at our last work session. I remembered the both of you the last time, the plumbers. I said that we have to make sure because there is a low point there and the drainage would have to be taken care of.

Frank Compitello, Sr.: Who will be taking care of this?

Mr. Astorino: The developer.

Frank Compitello, Sr.: Would it be DPW?

Mr. Astorino: No. It will be the developer.

Mr. Showalter: When they build it, it has to be built to a specification.

Mr. Astorino: I will give you an example. Take a ride onto Sleepy Valley Road. You will see the basins on the side of the road. They did that first. That had to be done first. It will be the same thing here on this project. If you look at Sleepy Valley Road, they had a bad situation especially after the heavy rains. It has been fixed. It is not a problem anymore. That is what we want to achieve here.

Frank Compitello, Sr.: When this comes to pass... What do we do besides stamp our feet?

Mr. Astorino: The Engineers are out there to inspect as the project moves along. If there is an issue, the building could go to the Building Department. They will take the proper procedure to correct the issue.

Mr. Bollenbach: If there are any problems, let us know.

Mr. Showalter: That is why we are here.

Mr. Astorino: Once it leaves here, it becomes a Building Department issue.

Frank Compitello, Jr.: Is there going to be some blasting and some hammering?

Mr. Astorino: Yes. They are putting a blasting plan together. It has to be reviewed by our Town Engineer to make sure it will be done properly. Zen is in the process of reviewing it.

Frank Compitello, Sr.: Is there a target date when this might be complete?

Mr. Bollenbach: This would be just preliminary approval. It would still have to go for final approval.

Mr. Astorino: There is still some time here.

Frank Compitello, Jr.: Ok.

Mr. Astorino: We are working on the issues.

Frank Compitello, Jr.: We would like to thank the Board for their considerations.

Mr. Astorino: Is there anyone else wishing to address the Dayspring-Baum application?

John Sanford: I am Dorothy's Father. Regarding the fence, would they maintain the fence once it is up?

Mr. Astorino: Yes.

John Sanford: Many years ago, I was on the ZBA. I was wondering why it wouldn't be a Town Road coming in as opposed to having an HOA? We have had much trouble with 280a variances.

Mr. Bollenbach: That is one of the Town's options. It has been specifically inserted into the cluster regulations to provide for private roads. It was specifically put into the code. The Town Board will be doing a code revision. You could address your comments to them.

Mr. Astorino: As far as these private roads, they are a little better designed now than they were years ago. The Board is taking a good look to make sure they are done properly as far as maintenance issues, road washouts, and what have you.

Mr. Bollenbach: Yes. If you or the Board would like to see a copy of a sample road use and maintenance agreement, provisions are contained within that the individual homeowners would have to maintain the road to the specifications set forth on the approved plan, filed map, as well as the drainage facilities. There will also be a Drainage District that will be formed. In the event that it is not properly maintained regarding the road or the drainage facilities, the Town could go and have that work contracted out and assess it to the individual property owners or they could fund an actual Drainage District. That is something the Town Board might want to consider at a future date.

Mr. Astorino: There are extensive layers as opposed to years ago as far as private roads.

Mr. Bollenbach: There is a mechanism where the homeowners would have to have annual meetings. One of the homeowners would be the chairperson of that "Association".

Mr. Singer: The Town likes private roads because the Town is not responsible for the maintenance of it. The Town would save money. But, in your case, you will have a stub road

to your property. If you are ever to use that, they would have to make a public road. They would have to change it.

Mr. Bollenbach: That is not the case.

Mr. Singer: That is what we had discussed.

Mr. Bollenbach: No. It is specifically not the case. Within our code, there is a provision that requires stub streets to adjoining subdivisions. There is no distinction as to whether that would be a public or private street.

Mr. Astorino: Isn't it the number of lots?

Mr. Bollenbach: No.

Mr. Singer: We discussed at the work session that if the stub road is ever built, the people who wanted the stub road on the Sanford property would have to pay for upgrading the private road to the Town's specifications.

Mr. Bollenbach: That could well be. It all depends what the terms and conditions of that road use and maintenance agreement are.

Mr. Astorino: You would have enough width to potentially do that.

Mr. Singer: We have 50-foot width. You said that you would put that on the plan.

Mr. Bollenbach: Carl, it is already there. It is on the map.

Mr. Singer: So, it will be a Town Road if they ever hook up.

Mr. Bollenbach: No. You are incorrect. That is for the Town Board to decide. That is not for us to decide.

Mr. Showalter: As I recall, it would be built to the specifications of a Town Road.

Mr. Bollenbach: Of a private road. It is a private road.

Mr. Showalter: As of right now. But, it could be upgraded in the future.

Mr. Bollenbach: That depends.

Mr. Singer: No way should his property be connected to a private road.

Mr. Bollenbach: Carl, that is a requirement in the code.

Mr. Singer: It has to be upgraded. Ben, didn't we discuss this?

Mr. Astorino: I know that we had a discussion.

Mr. Bollenbach: Carl, it was included in the emails that were sent to you. It is §137-18 street layout arrangement. It does require a "stub street" or "connection" to the adjoining property

unless the Board specifically finds that due to topographic conditions that it is not feasible. "The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided." That is part of the first sentence. It goes on. You could read it at your leisure.

Mr. Astorino: The bottom line is to provide a stub street. Carl, I think your point was and correct me if I am wrong, if Mr. Sanford decides to put in 30 houses on there, I think the Planning Board, Town Board, or whoever has the authority to connect that property. It would probably be wise to request a Town Road at that time.

Mr. Singer: I thought that we were making part of the approval that they will have to allow him to upgrade it to a Town Road.

Mr. Astorino: I think that is what the mechanism is in place that it could be upgraded to a Town Road, but if Mr. Sanford decides to put up only 3 houses there that maybe a private road would be fine. Do you understand what I am saying? But, if you are going to put in 30 houses, then I agree that it should be a Town Road.

Mr. Bollenbach: You could go up to 19 on a single access road. Let me state this one other provision. Ted, you will need to include this in the Negative Declaration where we find it appropriate. Where in the opinion of the Planning Board topographic or other conditions makes such continuance undesirable or impractical, the above conditions may be modified.

John Sanford: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Dayspring-Baum application?

Dottie Rinaldi: Could you give me an example of a private road that is nice?

Mr. Astorino: Take a look at the one on West Ridge Road Jim Aronson. There is one down from Kenny Evans place called Blancher Road. There is another one off Pine Island Turnpike called Warwick Lake Parkway. Those are some of the new ones that we had done. There is one off Route 94 called Horse Hill. You could take a look at Hambletonian Road.

Dottie Rinaldi: Ok. My daughter Jamie has a friend that lives on Buttermilk Falls Road.

Mr. Astorino: Don't even go there.

Mr. Singer: You picked the worse one. We are making private roads better.

Dottie Rinaldi: Who will maintain the fence?

Mr. Astorino: It will be the applicant, the developer, or the HOA.

Mr. Bollenbach: It all depends on how we set this up.

Mr. Astorino: It is yet to be determined. It will not be you.

Dottie Rinaldi: We want to know who, if there was going to be a problem.

Mr. Astorino: You would go to the Building Department.

Dottie Rinaldi: Ok.

Mr. Bollenbach: It all depends. It is still a question, if an HOA would be applicable to this due to the extensive nature of drainage concerns. There might have to be a HOA to maintain that. At the same time, they would also maintain the fence.

Dottie Rinaldi: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Dayspring-Baum application?

Meg Pieper: In the presentation on the Luft Farm, you were talking about markers for the open space. Why hasn't that been talked about in relation to a project like this? How is this different?

Mr. Astorino: It isn't different. They are doing a cluster. They will do the same thing. They will place stone cairns at the corners of open space.

Meg Pieper: Ok. Is that the outer corners?

Mr. Bollenbach: It would be the interior corners where the cairns are so that they are within the property itself.

Mr. Astorino: You will have stone cairns at the property corners so they know that they could not cross that.

Meg Pieper: Ok. Good.

Mr. Astorino: That will give it definition even for the Building Department so that if someone dumps a shed out there, they would have a way to know the line.

Mr. Singer: Ben, I think they are wrong. It is not in the code that they have to put stone cairns in.

Mr. Astorino: It is not in the code. We required it.

Mr. Singer: Did we do that on this project?

Mr. Astorino: I am almost positive that we did that for this project.

Mr. Bollenbach: It is stated in comment #15.

Meg Pieper: All right.

Mr. Bollenbach: If the applicant would request some kind of concrete monument or something else, that would be done on a case-by-case basis.

Mr. Lipman: I have a question regarding the private road, the stub street, and the adjoiner. People build private roads to create a private atmosphere within a subdivision. It isn't typical. In fact, it is never a circumstance when a road is open to the public. Yes, the mail carrier would come up. The school buses may not. It is a private kind of neighborhood. The people in that private neighborhood fund the maintenance of that road. I do not see the sense in connecting a private road with a stub street to the adjoining property and invite the rest of the Town to drive through that private road. I think that it is appropriate to provide an emergency access facility out to another property if as and when there would be another subdivision. I do not understand the planning purpose of a private street in a small subdivision and have it accessible to the public in order to get in and out of their subdivision. Why should the residences of this little community support usage by a whole different class of people?

Mr. Astorino: A class of people?

Mr. Lipman: Yes, class of people that are outside and inside. It is a class of people that don't live in the subdivision as against the class that does.

Mr. Astorino: I think that it is proper planning to provide a stub street. If it is put into their deeds that this road potentially could be opened up for a Town Road, I don't see it as a major stumbling block. I don't understand where you are going. If there is a stub street that goes into the Sanford's property, and they decide to develop that property, it would make sense in my mind planning wise to come off a road existing that borders that property to get to those lots. In case that doesn't make sense, it is only a paper street, and it wouldn't work.

Mr. McConnell: Don't they have to participate in the use and maintenance agreement of that street?

Mr. Bollenbach: Absolutely.

Mr. McConnell: Mr. Lipman, you are not creating a situation where people are getting the benefit of the street without paying for it.

Mr. Lipman: How do you require?

Mr. McConnell: It is the requirement of the new subdivision that they participate in the use and maintenance agreement of that street.

Mr. Lipman: Do you mean this Board is going to impose that as a condition of approval?

Mr. McConnell: That is my understanding.

Mr. Bollenbach: That isn't something that we have gotten to specifically. It was just a general note to provide a declaration with recording information on the plan. I am looking at comment #12 for private road and drainage use and maintenance agreement.

Mr. Lipman: But, the maintenance agreement for this subdivision that is before you, can't impose a burden on people in the next subdivision.

Mr. Bollenbach: Are you representing the Dayspring-Baum application?

Mr. Lipman: I am representing me.

Mr. Bollenbach: Ok. Whatever the applicant proposes, I will review it. I will then discuss it with the Board.

Mr. Lipman: I am wondering as a practical matter whether it makes sense if it requires a stub street in case of a private road. I am not arguing that stub streets are not sensible. They are completely sensible when both streets are public. It is not quite so sensible when one of them are private.

Mr. Astorino: That is something we would have to investigate.

Mr. Singer: I brought up this point at the work session. It was pointed out, that it is in the code that we have to provide a stub street. It doesn't mention whether it is for a private road or a public road. We have to provide a stub street.

Mr. Lipman: Even the Town of Warwick could be wrong.

Mr. Bollenbach: Carl, if you go one step further, once it gets over the 19, then it would have to become a public road.

Mr. Lipman: It says two points of access. I don't know if it has to be public road.

Mr. Bollenbach: I stand corrected.

Mr. McConnell: I would suggest that this isn't the proper time for this right now.

Mr. Astorino: We will have to take a look at this.

Mr. McConnell: Mr. Lipman, it is duly noted.

Mr. Astorino: Is there anyone else wishing to address the Dayspring-Baum application. Let the record show no further public comment. There are still a few issues that have to be looked at.

Kirk Rother: Ok. You want to have some sort of a fence. We know about the drainage issues on West Ridge Road.

Mr. Astorino: Talk to Zen. You have to get that laid out on a map.

Kirk Rother: As far as public comment, the only other item was the stone cairns. We are aware of that. We still have to get to final approval. We still have to go to OCHD.

Mr. Astorino: You still have to take care of the yield plan.

Mr. Fink: There are also the mitigation planting issues.

Mr. Singer: Is your intention to have a HOA?

Kirk Rother: No. Not for a project of this size.

Mr. Singer: I don't think there is any mechanism for us to have them repair that fence. It is going to be on individual lots. There is no HOA involved here. What are you talking about?

Mr. Bollenbach: If the fence is only behind lot 4, for example, that could be his responsibility. If lot 4 also has the requirement to plant 7 spruce trees that have to be maintained, that would be up to lot 4 to maintain them. In the event they don't, they would get a violation. There are many mechanisms.

Mr. Singer: Could you put it in the deed that each one of these lots would have to maintain the fence?

Mr. Bollenbach: Absolutely. They would also have to maintain the trees, drainage, and the site triangles at the end of their driveways. It should be done individually. They will have to paint their houses a certain color. They would have to have a certain watt bulb. Carl, I am not making fun of this.

Mr. Singer: I don't think they have to maintain the trees. We don't have a mechanism to make them do that.

Mr. Bollenbach: Yes. There is. They shall plant the trees. There is a planting bond.

Mr. Singer: You are talking about the new trees. The existing trees, they have no obligation to maintain them.

Mr. Bollenbach: For the ones that are in the open space, they do and the new ones planted would have to be maintained.

Mr. Astorino: We will have to adjourn this to another date. The yield plan has to be corrected first before we could take any action.

Mr. McConnell makes a motion to adjourn the Dayspring-Baum Public Hearing to the April 16, 2008 Planning Board meeting.

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

Kirk Rother: Thank you.

PUBLIC HEARING OF Edward and Mary Jordan

Application for final approval of a proposed 3-Lot cluster subdivision, situated on tax parcel S 55 B 1 L 27.2; parcel located on the southern side of Bellvale Lakes Road at the intersection with Lower Wisner Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the February 20, 2008 Planning Board meeting.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering.

1. Board to discuss SEQR.
 - A. Planner to discuss proposed screening plantings.
2. Applicant to discuss project.

YIELD PLAN (11/18/05, REVISED 2/9/07):

3. On the Yield Plan, the proposed septic system for Yield Lot #3 is within the 100-foot wide agricultural buffer (adjacent to SBL 58-1-9, mislabeled as SBL 58-1-10.1). Septic systems within agricultural buffers require a waiver from the Planning Board; no waivers are allowed on Yield Plans. Board accepted Yield Plan by consensus on March 7, 2007. Board and Applicant to discuss.

CLUSTER PLAN (11/18/05, REVISED 2/21/08):

4. Common driveway allowable maximum grade is 12%. Proposed road has a 14% grade. The Applicant is requesting a waiver due to topography. Present a sketch plan to the Board showing and comparing the impact of a Code compliant road and the proposed road.
5. Show a 100-foot wide agricultural buffer along property boundary with Buckbee and Bogdanski farms. Provide notes to the Planning Board Attorney's specifications.
6. Place Demolition Notes on plan.

BEFORE FINAL APPROVAL:

7. Applicant to consider an irrevocable offer of dedication strip on Lots 1, 2 and 3 within 25 feet of the centerline of Bellvale Lakes Road. Provide recording information for the dedication strip on the plans.
8. Provide declaration & recording information on map for Common Driveway & Drainage Use & Maintenance Agreement, Ridgeline Protection Notes, Open Space Notes, Agricultural Protection Notes and Stipulation of Settlement Notes.
9. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns set at corners of open space.
10. Provide a copy of the NOI submitted to the NYSDEC.
11. Pay parkland fees.
12. Pay performance bond and construction inspection fee for common driveway, drainage and soil erosion control. Pay landscape maintenance bond for screening landscaping.
13. Pay outstanding review fees.

WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§164-41.2K(5)	Common Driveway – waiver from maximum 12% grade, allowing 14% maximum grade.
§164-41.1G(4)	Agricultural buffer – waiver to allow clearing for and maintenance of a septic absorption field within the agricultural buffer.

The following comment submitted by the Conservation Board:

Edward and Mary Jordan – None Submitted.

The following comment submitted by the ARB:

Edward and Mary Jordan – None Submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has already declared Lead Agency on this Unlisted application. We are still in the process of gathering information as far as SEQR is concerned.

A. Planner to discuss proposed screening plantings.

Mr. Fink: Although I was not at the last public hearing on 2/20/08, it was my understanding that there were concerns expressed about headlights and so forth shining into some of the adjoining properties. This project is not within the Ridgeline Overlay, but the applicant had offered to have this treated as if it were in the Ridgeline Overlay District. That carries with it the assumption that there will be mitigation plantings for screening purposes. The Planning Board has the ability to direct the applicant to provide for mitigation plantings. That is what is being suggested here tonight.

Comment #2: Applicant to discuss project.

Karen Emmerich: The Jordan property is located on Bellvale Lakes Road. There are (2) existing dwellings on the property currently. We are proposing a 3-lot cluster subdivision where (1) existing dwelling would remain on lot 1. The other dwelling would be removed and there would be (2) new additional lots.

YIELD PLAN (11/18/05, REVISED 2/9/07):

Comment #3: On the Yield Plan, the proposed septic system for Yield Lot #3 is within the 100-foot wide agricultural buffer (adjacent to SBL 58-1-9, mislabeled as SBL 58-1-10.1). Septic systems within agricultural buffers require a waiver from the Planning Board; no waivers are allowed on Yield Plans. Board accepted Yield Plan by consensus on March 7, 2007. Board and Applicant to discuss.

Mr. Astorino: That is the same thing that we just went through.

Karen Emmerich: I would ask that the Board take a look at that whole provision in the code. It is under the cluster design requirement. If you look under the requirements under residential, it is called §164-41 Supplementary Residential Requirement. Under D, it says buffers adjacent to actively farmed land shall be established for residential subdivisions, said buffer strips when required shall be no less than 30 feet in width and may be required up to a width of 100 feet. It doesn't mandate 100 feet. The cluster mandates 100 feet. My argument is that in the yield plan it is not mandated that it be 100 feet. At least, I don't read it that way.

Mr. Astorino: I know that I have read it, Zen had read it, and the Board had read it. We had a big discussion on this.

Zen Wojcik: We had a discussion on this. Karen has raised a good point. The Board has beaten this up at a workshop.

Karen Emmerich: I am not sure that it is in the code that you are following the code. I am just asking that you take a second look.

Mr. Astorino: We will revisit it. I think that is where we are at now. We will leave it at that for right now.

Karen Emmerich: As far as revising the septic system as far as the cluster design, I understand that provision. But, redoing the yield plan is what I am questioning.

CLUSTER PLAN (11/18/05, REVISED 2/21/08):

Comment #4: Common driveway allowable maximum grade is 12%. Proposed road has a 14% grade. The Applicant is requesting a waiver due to topography. Present a sketch plan to the Board showing and comparing the impact of a Code compliant road and the proposed road.

Karen Emmerich: I do have it. I forgot to bring it with me tonight. I will provide that.

Comment #5: Show a 100-foot wide agricultural buffer along property boundary with Buckbee and Bogdanski farms. Provide notes to the Planning Board Attorney's specifications.

Karen Emmerich: Ok.

Comment #6: Place Demolition Notes on plan.

Karen Emmerich: I am not sure if the house will be demolished. They might want to move the house. I am not sure on what kind of notes we will need for that situation.

Zen Wojcik: Mr. Chairman, we were talking about coming up with notes to mainly protect the neighborhood if demolition would occur.

Mr. Astorino: Are they going to move the house off site?

Karen Emmerich: They may move it.

Mr. Astorino: Would they move it up to one of the lots?

Karen Emmerich: They are considering it. It hasn't been finalized or resolved yet. That is the way they are leaning towards.

Zen Wojcik: Either way, they would still wind up with a hole in the ground where the foundation is and the septic system. They would still need the notes.

Mr. Bollenbach: It is not just for the demolition. It is also for the septic abandonment.

Zen Wojcik: Right. It is all part of the same thing.

Mr. Bollenbach: I just want to make it very clear that there is also the oil tank removal.

Mr. McConnell: I am trying to recall how the demolition plays out with the Court Order on this thing versus moving it with timing and so on. Could you clarify that for me?

Mr. Bollenbach: I will have to take a look. I could get back to you on that at the next work session. What was stipulated was that it be demolished or "I would interpret that it be removed from the property". I would have no problem with that. We could always amend that or confer with the Court.

Mr. McConnell: I recall at one public hearing there was some discussion about the timing of these things.

Mr. Bollenbach: I believe it was 180 days from the date of the approval.

Mr. McConnell: If you could, please take a look into that.

Mr. Bollenbach: I will.

Karen Emmerich: It is right on sheet 1.

BEFORE FINAL APPROVAL:

Comment #7: Applicant to consider an irrevocable offer of dedication strip on Lots 1, 2 and 3 within 25 feet of the centerline of Bellvale Lakes Road. Provide recording information for the dedication strip on the plans.

Karen Emmerich: If they decide to do that, we will do it.

Comment #8: Provide declaration & recording information on map for Common Driveway & Drainage Use & Maintenance Agreement, Ridgeline Protection Notes, Open Space Notes, Agricultural Protection Notes and Stipulation of Settlement Notes.

Karen Emmerich: Ok.

Comment #9: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns set at corners of open space.

Karen Emmerich: Yes.

Comment #10: Provide a copy of the NOI submitted to the NYSDEC.

Karen Emmerich: Zen, I believe we submitted a draft NOI to you. Is that correct?

Zen Wojcik: Right.

Comment #11: Pay parkland fees.

Karen Emmerich: The owners are aware of that.

Comment #12: Pay performance bond and construction inspection fee for common driveway, drainage and soil erosion control. Pay landscape maintenance bond for screening landscaping.

Karen Emmerich: The owners are aware of that.

Comment #13: Pay outstanding review fees.

Karen Emmerich: Ok.

WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§164-41.2K(5)	Common Driveway – waiver from maximum 12% grade, allowing 14% maximum grade.
§164-41.1G(4)	Agricultural buffer – waiver to allow clearing for and maintenance of a septic absorption field within the agricultural buffer.

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

Mr. Singer: Karen have they done any exploration to see if they could move that septic field.

Karen Emmerich: We haven't yet. I have just found out about this. I think we will be able to move it over. I won't know until we get out there and do soil testing. The other (2) septic systems the soil conditions were pretty good. We will go out there and see what we could find.

Mr. Singer: As you know, it is required to put the utilities underground. I recently put a utility line in. They made me put it in 3 feet deep and surround it with sand, etc.. How are you going to do that when you are blasting?

Karen Emmerich: We are not proposing blasting here. We had a geotechnical engineer out there. Any underground utilities could go up along the side of the driveways.

Mr. Singer: Ok.

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

Al Buckbee: Could we go over the yield plan again?

Mr. Astorino: They have to prove that the septic system is not in the agricultural buffer within 100 feet.

Al Buckbee: Ok. Is the yield plan adoptable now?

Mr. Astorino: The yield plan does not get voted on. It is done by a consensus, as you know. We have looked at it. There is an issue. No action has been taken on this application. They will change. It is not an approved yield plan. It is a consensus of the Board. No action or votes were taken on this application. It was a consensus that yes we agreed to the yield plan. Now, we are going back to it.

Al Buckbee: Ok. So, until the yield plan gets adopted, there is no further action. Thank you.

Mr. Bollenbach: Skip, if you take a look at comment #3, it was the adjoiner that was mislabeled on one of the maps. It is your parcel. We didn't know that. Now, we know that it is. We brought it up. We took a look at it. We are working on it.

Al Buckbee: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Jordan application?

Mark Malocsay: After reviewing the minutes, I have a few things to bring up. Connie, you have done a good job on the minutes. A lot of the discussion was based on the open space and why we are looking at the application as a cluster to begin with. I wanted to review that for a second. I know that we have covered that before. To show that you have 50% of open space after showing the clustering, does the Board realize we are trying to create open space, but if you take away the areas that cannot be built upon from that original property, do they realize it is very difficult to show that you have 50% of open space?

Mr. Astorino: I think you could say that on almost any project. What if the project had wetlands?

Mark Malocsay: No. There is a big difference between this one and a lot of the other ones.

Mr. Astorino: What you are saying is if it is "unbuildable property".

Mark Malocsay: No. I said that you can't build on the front of the property because you have a setback. You can't build on the side of the property because you have a setback. You have (2) setbacks on the back and the side because you have 100 feet because of the agricultural. I am not looking at anything else. The reason that I am separating this one from the other lots that you have done is because this one is something that I have said that doesn't make sense in clustering because it is (2) or (3) lot cluster. It is very different from the larger clusters where you could have those setback requirements and still show the 50%.

Mr. Astorino: I am loosing you in translation. What you are saying is that the Ag buffer or the open space on this site shouldn't be open space?

Mark Malocsay: No. What I am saying is that you are calculating open space that is already open space.

Mr. McConnell: I think that is permitted under the code. I think the 100-foot wide Ag buffer is permitted to be considered open space for purposes of the calculation that you are referring to.

Mr. Astorino: The Geiger subdivision was not a 3-lot cluster. I think it was a 4 or 5 lot cluster. Correct me if I am wrong, but that subdivision was similar to this nature. You can't quote me on that.

Mark Malocsay: I know that looking at other applications each one as individual as we had discussed before, I wasn't going to look at a particular application. I was looking at this one. I understand that the Board might view that way that it is already open space. It brings you back to the question of part in the definition where it says cluster development and it explains why we cluster. Cluster development results in the flexibility design in the development to promote the most appropriate use of land. Clustering is not mandated. We have to take a look to see if does it provide what we want it to provide in order to cluster to give them a bonus density. When we look at the overall picture and say you are getting 50% open space which already exists, if it were (2) lots. Even if it were (3) lots with their plan, the 50% already exists because they could not build there anyway.

Mr. Astorino: Let me ask you a question since you are on the ZBA. If the applicant came before us with a conventional plan with 10 acres and one lot had 4 acres and the other lots had 2 or 3 acre lots, they wouldn't be able to do that so they would need a variance from the ZBA.

Mark Malocsay: Right.

Mr. Astorino: What is to gain? You are saying that they are not gaining this way. At least in my mind, if you pull the map out, you are bordering the Buckbee Farm which is PDR farm with open space. If you went the other way and they came before the ZBA, there are no restrictions. They could put a shed, how many feet from the property line?

Mr. Bollenbach: They could put a shed 5 feet from the property line.

Mr. Astorino: Theoretically, they have more restrictions on this plan right now. We had a lengthy discussion about this whole thing at the work session Monday night. The Board and I have done a lot of reading about this the past week, especially this project. We spent a lot of time on this at the work session. It was a very good work session. At least in my mind, if the applicant went the other route, which has happened numerous times in the past, all right they could go conventional. That would not be a problem.

Mr. Bollenbach: They could clear right up to the property line.

Mr. Astorino: They could clear right up to the Buckbee Farm.

Mark Malocsay: Open space doesn't have anything to do with clearing to the best of my knowledge.

Mr. Astorino: Yes. It does. They can't touch that.

Mr. Bollenbach: It would be a deed restriction.

Mark Malocsay: A lot of these areas to me are a little bit gray. When we are talking about open space, which means if you have farmland as open space, you can't cut the grass anymore.

Mr. Astorino: No. You are missing the point on this.

The Planning Board and Mark Malocsay go on discussing the means of clustering and open space. Mr. Astorino brings up the Luft farm as an example that has a piece of open space that has an agricultural buffer to that or to the neighbors that cannot be touched. Mr. Astorino explains to Mr. Malocsay the restrictions on what can or cannot be done in the open space. Mr. Astorino discusses that the Jordan application might not be the best way of clustering but says at least there is control with it.

Mark Malocsay: Ok. I understand your point by them going to the ZBA getting a 3-lot subdivision, they stand a good chance. However, if it is not a cluster, it would be difficult because the clustering is the only one that allows them to give the flexibility of design to develop to promote the most appropriate use of land.

Mr. Astorino: I am not going to get into that. I have seen some issues sent to the ZBA from this Board.

Mr. McConnell: That is almost irrelevant at this point. Mark, where are you reading that from?

Mark Malocsay: I am reading it from articles and definition of cluster development.

Mr. McConnell: Is that from the code?

Mark Malocsay: I believe it is from the code. I didn't see it in the Comprehensive Plan.

Mr. McConnell: Is there mandatory language there?

Mark Malocsay: No. It is just the definition.

Mr. McConnell: Ok.

Mark Malocsay: It goes on with that definition it says to update the adequate economical provisions to for utilities, which it doesn't. We understand why that is in there for clustering and to preserve the natural and scenic qualities of the open lands. When you look at this piece of property and you are looking at what to do to put in 3 houses instead of 2 houses and the clustering to preserve the open space, you are driving down a short length of road. They don't have too much road frontage here. The only thing that anybody would see from this is a driveway that is 16 feet wide and blacktopped. It would basically almost look like a private road. It is just a little bit shy of a private road. That is all they would see. They wouldn't see any of the houses because they sit up and over on the back of the hill, which is nice. Because of the clustering, that is what people would see. Again, it is the question of allowing them to cluster. It is a matter of weighing out the benefits that in the open space to preserve this land, or we are looking at the driveway that is up over the hill.

Mr. Astorino: The driveway is going to be blacktop. Even if it were a conventional subdivision, the driveways would be blacktop.

Mark Malocsay: The last one is the issue of it not being mandated, it is an option. The Board should look at all the possibilities. The Board really looks at what we have is 50% open space, is it something that we are going to do? There are 5 members of the Board. It is not easy to say because they have given us 50% of open space. The reason that there are 5 members is to debate to figure out which way you want to go to vote on it. It seems that there is no swaying the Board because they gave us 50% of open space.

Mr. Astorino: I totally disagree with that.

Mr. Bollenbach: Ted, do you want to go over the 4 Step process?

Mr. Astorino: Before we do that, but not just this application, it is every application that we see; we just don't look at one thing. I will speak for everyone on this Board that we look at every project as its own. 50% of open space is just one requirement. They need to show us that it is going to work. We have done site visits out there. As I have pointed out, we had a very good work session on this project. I don't know how the other Board members will vote. They have their own opinion. They could do whatever they want. It takes (3) votes. At least in my mind, I took a look at Buckbee's farm especially. What is the alternative? Is it a conventional? There is no doubt in my mind that if they redo this plan to a conventional subdivision, they would get 3 lots there regardless.

Mark Malocsay: No. They would get 2 lots. We don't know if they are going to get 3 lots. They are allowed 2 lots.

Mr. Astorino: They are allowed 2 lots. Don't you think that they are going to go in front of the ZBA and petition the ZBA for a variance?

Mark Malocsay: Karen, didn't you do that once already?

Connie Sardo: They did try once.

Mark Malocsay: They did not get it. Again, you are allowed (2) lots. You are not allowed (3) lots. They would have to get a variance from the ZBA for that. Don't be looking at that they are going to get it. They went to the Board. They did not get it.

Mr. Bollenbach: I don't know if it was denied.

Connie Sardo: No. The ZBA application was withdrawn.

Mark Malocsay: It was withdrawn.

Mr. Bollenbach: It is an irrelevant issue.

Mark Malocsay: The next issue is regarding the well. I don't believe there is going to be a problem, but there has been some issues in drilling wells. My well was at 300 feet in order to get 1.5 gallons per minute. To check, there are the neighbor's wells that we could look into to see what they are. My well is by far the closest. There is one other subdivision off Route 17A that could be close. They could be checked.

Mr. Astorino: We have done that in the past in this area.

Mr. Bollenbach: This is the first that we have heard any concerns about the availability of water. Provide some documentation. That was on top of Mount Peter, the Daly subdivision.

Mark Malocsay: That is way up there.

Mr. Astorino: There was an issue with his water. We had him dig a well and test it.

Mr. Bollenbach: We haven't heard of any other. If you do, that is a legitimate issue. Bring it to the Board.

Mark Malocsay: I have done that. We could check into the other ones to see what they are now. All of the other wells that are across the street that are close to the area are all hand dug. For the most part, they are shallow wells.

Mr. Astorino: Are they spring fed?

Mark Malocsay: I am under the assumption that they are.

Mr. Astorino: John, is that allowed?

Mr. Bollenbach: They are pre-existing.

Mark Malocsay: I don't think there is one there that is less than 100 years old.

Mr. Bollenbach: I think that borders on the aquifer area.

Mr. Astorino: Do we have documentation on your well?

Mark Malocsay: I get 1.5 g.p.m. The house was built in 1984. It should be on record.

Mr. Astorino: Could you provide that information?

Mark Malocsay: Yes. The other question that I have is regarding the public hearing. Is the public hearing going to be open to the next meeting?

Mr. Astorino: Yes.

Mark Malocsay: Ok. That is it for now. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Jordan application?

Mr. Singer: I would like to ask Mr. Buckbee something. At one time, you told us that some of the houses along there use drinking water from Longhouse Creek. Is that true?

Al Buckbee: 15 State School Road does.

Mr. Astorino: Really?

Mr. Singer: Is it because they couldn't get water some other way?

Mr. Astorino: On State School Road, you would think there would be a lot of water.

Al Buckbee: On the other side of the road there is. On the east side of the road, there is no water.

Mark Malocsay: The other wells were being looked at because they are not drilled. They are hand dug or shallow.

Mr. Astorino: Provide us with documentation.

Mark Malocsay: Yes. I will.

Phyllis Briller: I have one question from one of the neighbors that is not here tonight. The question revolves around septic. On the single home that is going to remain or be renovated, has the septic for that been tested? Is it a new septic that has been put in? I know that Millpond had big septic problems going into Longhouse Creek.

Mr. Astorino: That is a valid point. Has a dye test been done?

Karen Emmerich: Yes. We have done a dye test.

Mr. Astorino: I thought so.

Zen Wojcik: It is actually closer to Longhouse Creek. We were concerned about that for that reason.

Mr. Astorino: Just check to make sure that was done.

Karen Emmerich: Yes.

Mr. Astorino: Is there anyone else wishing to address the Jordan application? Let the record show no further public comment.

Mr. Singer makes a motion to adjourn the Edward and Mary Jordan public hearing to the April 16, 2008 Planning Board meeting.

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

Karen Emmerich: Thank you.

Review of Submitted Maps:***Buono Subdivision***

Application for sketch plat review of a proposed 2-Lot (Minor) subdivision, situated on tax parcel S 10 B 1 L 64.3; parcel located on the western side of Glenwood Road 500 feet south of Newport Bridge Road, in the RU zone, of the Town of Warwick.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. The lot area for proposed Lot #1 is 2.39 Acres, less than the minimum 4 Acres required in the RU zone. Board to consider referral to ZBA.
4. Show location of septic for existing dwelling.
5. Complete plan for minimum submittal requirements, per the Checklist:
 - a. Dimension building setback lines.
 - b. Show tree line; locate significant trees.
 - c. Show utilities.
 - d. Complete topography to delineate any areas of slopes $\geq 15\%$ and buildable area.
 - e. Show compliance with the square rule.
6. Estimate area of disturbance and note on the plan.
7. According to the mapping of soil types on the submitted plan, the proposed dwelling site and possibly the septic field may be situated in ErB soils, a Group VIII soil type. Septic systems may be permitted by an exemption from the Planning Board. Foundation drains to a free-flowing outlet must be provided for dwelling. Clarify the limits of Group VIII soils at the homesite area and show appropriate foundation drains.
8. Two existing culverts drain the parcel. Show that the proposed development will not adversely affect on-site drainage or, alternately, show how the effect may be mitigated.
9. Provide the declaration and the recording information on the plan for Radon Reduction Notes and Agricultural Protection Notes.

The following comment submitted by the Conservation Board:

Buono Subdivision – None Submitted.

The following comment submitted by the ARB:

Buono Subdivision – None Submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: We have a short EAF that the applicant submitted. It is an Unlisted Action. The ZBA is an involved agency. As a result of the Zoning Board involved in the application for subdivision approval, it doesn't meet the current zoning requirements. The Planning Board doesn't need to address SEQR at this point until the applicant comes back from the ZBA with an area variance. Then at that time, we could do Lead Agency.

Mr. Singer: Is the applicant going before the ZBA?

Karen Emmerich: Possibly. Our other alternative is to do a cluster subdivision.

Comment #2: Applicant to discuss project.

Karen Emmerich: We have approximately 6.5-acre parcel located on Glenwood Road. We are proposing a 2-lot subdivision. One lot of 2.39 acres and a new lot of 4.1 acres.

Mr. Singer: I see 100-year floodplain on this. I don't know where it ends.

Karen Emmerich: It is across the road that runs along Glenwood Road.

Mr. Singer: It is on the other side of the road.

Karen Emmerich: Yes. It is on the other side of the road.

Mr. Singer: Does it ever flood on that side of the road?

Karen Emmerich: I am not going to say that. I don't know if that is a 100-year flood.

Mr. Astorino: That is down towards the black dirt. Is that correct?

Karen Emmerich: Yes.

Zen Wojcik: Mr. Chairman, I did take a look at the flood maps because it was on the maps. I asked myself the same question. The FEMA maps show the same thing that is on this map that the floodplain is on the other side of the road.

Karen Emmerich: Carl, so that you know, this property rises up from Glenwood Road.

Mr. Singer: Ok. That is a good thing.

Comment #3: The lot area for proposed Lot #1 is 2.39 Acres, less than the minimum 4 Acres required in the RU zone. Board to consider referral to ZBA.

Mr. Astorino: If that is your means of attack, that would take care of that.

Comment #4: Show location of septic for existing dwelling.

Karen Emmerich: Yes.

Comment #5: Complete plan for minimum submittal requirements, per the Checklist:

- a. Dimension building setback lines.
- b. Show tree line; locate significant trees.
- c. Show utilities.
- d. Complete topography to delineate any areas of slopes $\geq 15\%$ and buildable area.
- e. Show compliance with the square rule.

Karen Emmerich: Yes. Will do.

Comment #6: Estimate area of disturbance and note on the plan.

Karen Emmerich: Will do.

Comment #7: According to the mapping of soil types on the submitted plan, the proposed dwelling site and possibly the septic field may be situated in ErB soils, a Group VIII soil type. Septic systems may be permitted by an exemption from the Planning Board. Foundation drains to a free-flowing outlet must be provided for dwelling. Clarify the limits of Group VIII soils at the homesite area and show appropriate foundation drains.

Karen Emmerich: Will Do.

Comment #8: Two existing culverts drain the parcel. Show that the proposed development will not adversely affect on-site drainage or, alternately, show how the effect may be mitigated.

Karen Emmerich: Yes.

Comment #9: Provide the declaration and the recording information on the plan for Radon Reduction Notes and Agricultural Protection Notes.

Karen Emmerich: Yes.

Mr. Astorino: You are off to the ZBA, maybe.

Karen Emmerich: Thank you.

Other Considerations:**1. Mountain View Estates** – Planning Board to discuss adopting the Final Scoping Document.

Mr. Fink: Where this stands, we have received a Draft Scoping Document from the applicant. We held a Public Scoping Session. We invited comments on the Scoping Document to all involved and interested agencies that had been identified. We did receive comments from the O.C. Planning Department. We received comments from a number of interested parties within the Town. We received a number of letters from them. Tectonic also reviewed the scoping document. I took a look at the Scoping Document. I prepared it to the Scoping Documents that we had recently issued for other subdivisions within the Town. I put together a proposed Final Scoping Document. We talked about this briefly at the Planning Board workshop on Monday night. John, I believe you had some additional comments since that workshop that I incorporated into this Final Scoping Document. I was also in communication today with Nina Peek who is a Planner. They are the consulting firm that will be preparing this. I have provided a copy of this to them in PDF and Word form. The only thing that remains to be done with this other than adopting as the official Scope for the project is in the section on Visual Impacts. There is a notation on page 17 under existing setting. One of the things that are included in this is the Visual Assessment. That includes some photographs provided of the site from at least 6 points by the Planning Board. That is something we could do right now or at a Planning Board work session. The Board might want to sit down together and go over the map on what is appropriate. That would give Planning Board members the time between now and then to drive around the area to see where the critical points would be. We could then direct the applicant to take care of that. We would do that in a correspondence afterwards. In the mean time, I think the rest of this document is in good form for adoption.

Mr. Astorino: Could we adopt it as it is?

Mr. Fink: Yes. It is in a form to be adopted.

Mr. Bollenbach: We could take a look at that. We could discuss it Monday night at the work session. At the following Planning Board meeting, we could take action.

Mr. Astorino: So, we can't take action this evening.

Mr. Bollenbach: Let us take a look at it first.

Mr. Fink: You could adopt the Final Scoping Document tonight, if you so choose. The Scoping Document has been set up in a way that it states clearly that the Planning Board will provide this information to the applicant. There is no reason to withhold the adoption tonight.

Mr. Astorino: Is the Board ok with that?

Mr. Kowal: I have a question. A couple weeks ago, there were some hearings about flooding in the black dirt area. In light of some of the developments that are going on in this area, some farm groups have approached me because they know that I am on the Board. They have asked me about what kind of assurances they could have that there would be no additional runoff from these properties which would cause flooding in the black dirt region, which was just flooded this past weekend.

Mr. Astorino: Would that fall under the SWPPP?

Mr. Bollenbach: No. Ted, didn't you have specifics referencing that? The tributaries to Quaker Creek, wasn't that one of the portions that was revised on the page under water resources?

Mr. Fink: Yes. It does talk about it extensively. It talks about examination of pre-development drainage patterns and conditions. It also talks about post-development drainage patterns and conditions. It talks about stormwater runoff and peak discharge rates. It talks about the ability of on-site and off-site receiving water to simulate additional runoff. That all needs to be evaluated. There are also quality factors included in that.

Mr. Bollenbach: Was that watershed issue specifically incorporated or not? I think that was an issue.

Zen Wojcik: The key for something like what Russ was talking about is that we are going up to the less frequent storms, the 100-year storm. Usually the SWPPP doesn't address the higher year storms as well as the lower ones. The EIS should address watershed issues for the contribution of the stream that comes from this property into the Wallkill watershed and any detrimental effects that it may have on that.

Mr. Bollenbach: Let us take a look at this and discuss it at the next work session.

Mr. McConnell: Yes.

Mr. Astorino: Ok. We will hold this off. We will put it on the 3/24/08 work session for the Board to discuss.

Kirk Rother: The SWPPP has to address the 100-year storm.

Mr. Kowal: I was wondering if we should revisit some of these 100-year storm events. Today, I went to a class where some people from Cornell were discussing climate change. One of the consequences of that is more severe weather. They showed us graphs not just of New York, but all of New England about the frequency of severe weather events in the area. All of the graphs are going up. Nothing is flat.

Kirk Rother: These rainfall events that we have been having are 10-year storms. We have had (2) 10-year storms in the last two months.

Mr. Astorino: We will get it in there.

Mr. Kowal: Ok.

- 2. Conklin-Kunisch Lot Line Change** – Letter from Law Office of Robert McManus, dated 3/4/08 addressed to the Planning Board in regards to Conklin-Kunisch Lot Line Change, requesting a 2nd 90-Day Extension on final approval of a proposed Lot Line Change, SBL # 25-4-2 & 24-1-31.211. Final Approval was granted on, 7/18/07. The 2nd 90-Day Extension becomes effective on, 4/18/08. *The applicant's requested mortgage release will not be forthcoming until May, 2008.*

Mr. McConnell makes a motion on the Conklin-Kunisch application, granting a 2nd 90-Day Extension on final approval of a proposed lot line change. Final Approval was granted on 7/18/07.

The 2nd 90-Day Extension becomes effective on, 4/18/08:

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

- 3. Goldman-Rechtman Subdivision** – Letter from Lehman & Getz Engineering, dated 3/5/08 addressed to the Planning Board in regards to Goldman-Rechtman Subdivision, requesting a 2nd 90-Day Extension on final approval of a proposed 2-Lot Subdivision, SBL # 19-1-24. Final Approval was granted on, 6/20/07. The 2nd 90-Day Extension becomes effective on, 3/20/08. *The applicant is close to submitting final plans for final review prior to the Chairman's signature.*

Mr. McConnell makes a motion on the Goldman-Rechtman application, granting a 2nd 90-Day Extension on final approval of a proposed 2-Lot subdivision. Final Approval was granted on, 6/20/07.

The 2nd 90-dat Extension becomes effective on, 3/20/08.

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

- 4. Planning Board Minutes of February 20, 2008** – Planning Board to Approve the 2/20/08 Planning Board minutes.

Mr. McConnell makes a motion to Approve the 2/20/08 Planning Board minutes.

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

Correspondences:

1. Memo from Supervisor Sweeton, dated 3/11/08 addressed to the Planning Board – in regards to the Robert Greene Subdivision (SBL # 78-3-42.1).

Mr. Astorino: Did I see that?

Zen Wojcik: That has to do with the referral of paying the bond and the inspection fee until a building permit is issued.

Mr. Astorino: Right. I did see that.

Connie Sardo: Mr. Lipman, Greene's maps were signed today by the Chairman.

Mr. Lipman: Ok.

2. **Norden Subdivision** – Letter from Lehman & Getz Engineering, dated 3/11/08 – in regards to Norden Subdivision – Requesting “***Re-Approval***” of Final Approval for a proposed 4-Lot subdivision, SBL # 40-1-25.21 & 25.224. Final Approval was granted on, 3/21/07.

Mr. McConnell makes a motion on the Norden Subdivision application, granting “***Re-Approval***” of Final Approval for a proposed 4-Lot cluster subdivision, situated on tax parcels S 40 B 1 L 25.21 and L 25.224; property located on the southern side of Ryerson Road at the intersection with Rutherford Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on March 21, 2007. (See attached)

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

3. **Planning Courses** – Intro to Land Use & Planning Course (5) Sessions 4/28/08-6/2/08 @ BOCES. Planning for Trees in Urban & Community Landscapes Workshop, 4/2/08 @ CVI Headquarters One Cablevision Center, Liberty, NY.

Mr. Astorino: That is 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.

Kirk Rother: Regarding the 100-foot Agricultural buffer, it is perfectly clear to me that it is required on the cluster. It is in the open space standards. On the yield plan, which is “a conventional plan”, you were telling Mr. Malocsay earlier there is no buffer and that you could have a shed within 5 feet.

Zen Wojcik: A yield plan is not a conventional plan.

Mr. Astorino: A yield plan is not a conventional plan. You can't take that yield plan and build that subdivision. A yield plan is part of the cluster subdivision.

Kirk Rother: The section of the code that is being referenced is under open space standards. There is no open space on the yield plan.

Mr. Astorino: We will review it.

Kirk Rother: Ok. That is all.

Mr. Lipman: I think that the gentleman is absolutely correct in that respect. In the first respect as to a shed being built, that is not correct. What we had told Buckbee, I think might be wrong because you have another buffer on conventional subdivisions that are adjacent to Agricultural properties.

Mr. Bollenbach: Alan, that was a misquote. Had it not been in the proximity of an Agricultural buffer, it could be 5 feet from a property line.

Mr. Astorino: But, a buffer is much less than 100 feet. Is that correct?

Mr. Lipman: A buffer could be between 30 and 100 feet as you had determined. There is no issue next to the farm. I want to point one more thing out to you that relates to the Dayspring-Baum application. We were talking about a private road and a stub street. How do you expect to give the occupants of the adjoining subdivision the right to use a private road? How do we get that right?

Mr. Bollenbach: That is part of the subdivision requirements.

Mr. Lipman: What?

Mr. Bollenbach: Provide access to adjoining parcels.

Mr. Lipman: Provide access by an easement? I have never seen in all the years that I have been working here any subdivision that gave to anyone beyond the occupants of the subdivision the right to use the road. It is illogical. That is one of the reasons that a stub street to a public road doesn't make sense.

Mr. Astorino: You mean to a private road.

Mr. Singer: He is right.

Mr. Lipman: A stub street connecting to a public road from a private road, there are ways to accomplish it. It has never been done here.

Mr. Astorino: That is something that we will have to discuss.

Mr. Bollenbach: We have several in the Town that are currently private that do access...

Mr. Showalter: We are trying to do the undoable.

Mr. Bollenbach: We are on the cutting edge.

Mr. Lipman: There are ways to do it.

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

Barbara White: Who owns a stub road?

Mr. Astorino: That is a dedication to the Town. John, is that correct?

Mr. Bollenbach: I thought I had explained that previously. Take a look at property. There is a stub road between two parcels. There is an offer of dedication that describes that 50-foot strip with 25 feet being on each side of those (2) lots. Both lots pay taxes on their entire parcel. They own it.

There is an irrevocable offer of dedication that is filed with the Town and the County. It is on record. At such time the Town Board decides to take it, they record the deed. The Town then takes it. That is the way it works.

Mr. Singer: Kirk had that on the map for an offer of dedication of 50 feet.

Barbara White: We had a situation.

Mr. Bollenbach: I don't know about a specific situation. I am just saying the way it generally works.

Barbara White: It was 50 feet. It stayed in the name of the party of the subdivision. Now, it is not allowed to be used. Why doesn't the Town....

Mr. Bollenbach: I have no idea.

Mr. Astorino: Is there anyone else wishing to address any of the agenda items? Let the record show no further public comment.

Mr. McConnell makes a motion to adjourn the March 19, 2008 Planning Board meeting.

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