TOWN OF WARWICK PLANNING BOARD
April 2, 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, April 2, 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.

Mr. Astorino: Before we start the Planning Board meeting tonight, I would like to take a moment of silence on the passing away of former Town of Warwick Planning Board Chairman, Warren Berger. Thank you.

PUBLIC HEARING OF Sundown Properties, Inc.,/Marco, LLC.

Application for preliminary approval of a proposed 20-Lot cluster subdivision, entitled "**Hampton Hill",** located on tax parcel S 18 B 1 L 27; parcel located along both sides of Jessup Road at the intersection with Spanktown Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the 2/20/08 Planning Board meeting.

Representing the applicant: Keith Woodruff from Pietrzak & Pfau Engineering. Bob Krahulik, Attorney. Sergio Smiriglio, Hydrologist. Mario Martinez, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project. .

YIELD PLAN (last revised 10/24/03)

3. No Comments. Board achieved consensus on 1/18/06

CLUSTER PLAN (6/22/04, LAST REVISED 5/7/07)

4. Well monitoring to date has shown a minimal effect on one adjoining well. However, neighbors report typical well yield of about 1gpm and test wells on the site required hydro-fracturing and air lift to achieve acceptable yields. Board to consider additional wells to be drilled and tested for yield with monitoring of neighboring wells to determine interconnections.
5. Show limits of improvements to Spanktown Road. Provide details and notes.

SWPPP Comments

6. Identify the forebay on the plans for the proposed pond.
7. Provide Emergency Spillway in proposed pond and include details.
8. Prepare a Landscaping Plan for the stormwater pond(s) and buffer area(s) consistent with the Design Manual.

BEFORE FINAL APPROVAL

9. Provide the declaration and the recording information on the plan for current Ridgeline Overlay Notes, Agricultural Protection Notes and Open Space Conservation. Provide the declaration and the recording information on the plan for Homeowner's Association

ownership and maintenance of stormwater management facilities. Indicate easements on plans and include descriptions in deeded declaration.

10. Applicant to offer dedication of R.O.W. strips along Spanktown and Jessup Roads to Town. Show on Survey Sheet and provide offer to Planning Board Attorney for review.
11. Provide offer of dedication of Hampton Drive to Planning Board Attorney for review.
12. Pay performance bond and construction inspection fee for Town road, stormwater management facilities and erosion control.
13. Pay parkland fees.
14. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 4/2/08:

Hampton Hill - The CB has no further comments.

The following comment submitted by the ARB, dated 4/2/08:

Hampton Hill – The ARB has no further comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. We have been reviewing it with the full EAF including extended studies, one of which was the water supply study. We are still in the process of collecting information related to the potential impact on groundwater resources.

Comment #2: Applicant to discuss project.

Keith Woodruff: We are currently proposing a 20-Lot cluster subdivision located on both sides of Spanktown Road and Jessup Road. There is currently 117 acres of which we are developing 28 acres. The remaining 86 acres approximately 74% would remain as open space. We are looking to give 71 acres to the Audubon Society. There are currently Federal wetlands on the site. It is currently all contained within the open space. The only people that could touch it is the Audubon Society.

YIELD PLAN (last revised 10/24/03)

Comment #3: No Comments. Board achieved consensus on 1/18/06.

CLUSTER PLAN (6/22/04, LAST REVISED 5/7/07)

Comment #4: Well monitoring to date has shown a minimal effect on one adjoining well. However, neighbors report typical well yield of about 1gpm and test wells on the site required hydro-fracturing and air lift to achieve acceptable yields. Board to consider additional wells to be drilled and tested for yield with monitoring of neighboring wells to determine interconnections.

Mr. Astorino: We had a conversation at the work session. Zen, do you want to explain this matter? I believe it is 4 additional wells that we want tested.

Zen Wojcik: That is what the Board discussed. Regarding the well testing, the 4 wells that were tested 2 of the wells had ½ gallon per minute before they were hydro-fractured. One of them was at 2 g.p.m. It was airlifted to bring it up to standard. One well was extraordinary. It was at 20 g.p.m. The Board did note that. People came out to the public hearing. They were talking about having wells at 1 g.p.m. and some of them barely making it at 1 g.p.m. The Board was concerned that there might not be sufficient well water supply available in this area for the development that is proposed. That is why the Board mentioned at the workshop that they would like to see additional testing be done not just to determine the yield that they would have at least between 2 and 5 g.p.m., but also to determine if there would be any further impacts on properties around. We can't predict where these interconnections are going to occur until we do some more tests and samples.

Mr. McConnell: Did we also discuss where we thought that would best be done?

Zen Wojcik: I think that was going to be a discussion that the Board was going to have with the applicant.

Bob Krahulik: The problem is that these wells are not inexpensive to drill. They are extraordinarily expensive. Mario, do you want to share with the Board the approximate cost of each of these wells?

Mario Martinez: The whole package with the monitoring is about $15,000.00 to $20,000.00 per well.

Bob Krahulik: To have 4 additional wells tested, we would be looking at spending approximately $80,000.00.

Sergio Smiriglio: If you have a low yield well in the neighborhood that is not an indication that you have low yields in the aquifer. It is just a poor well. The reason why it is a poor well is that it doesn't intercept the number of fractures that it needs to intercept. So, the transitivity of that well is poor. Transitivity is another word for communication. That well is not communicating with the surrounding aquifer. The communication is two ways. The Hampton Hill property wells when they are pumped influence wells that have high transitivity. If a well has a low transitivity, it doesn't see the effect. There is no interconnection there.

Mr. Astorino: The (3) wells that did not produce well on the Hampton Hill site have a low yield.

Sergio Smiriglio: We had them hydro-fractured and improved the yield. They had over 5 g.p.m.. They see the aquifer. The problem with the homeowner's wells that are low yield they need to be hydro-fractured. They need to be improved so that they could see the aquifer.

Mario Martinez: They are basically poorly constructed wells. They did not go to the extent that we had. It doesn't mean that they can't. Their wells are not affected by ours.

Mr. McConnell: Am I right in thinking that these wells would have to be drilled before you could pull a building permit?

Mario Martinez: Yes.

Mr. McConnell: All that we are doing is shifting the burden of when those wells are drilled. Is that correct?

Bob Krahulik: It is a little bit more than that. You are also asking us to monitor wells. How many wells are being monitored?

Sergio Smiriglio: It is about 20 wells.

Mario Martinez: It was over 24 wells that had to monitored. It was time consuming. It was expensive.

Sergio Smiriglio: To drill the wells, you have to build roads to the location of where the wells are.

Mario Martinez: It is not an easy process.

Bob Krahulik: I would like to take a step back. When we were here in February, I have the minutes of the meeting. The technical data does not support the conclusion that there is a problem with the neighboring wells. As a matter of fact, Tectonic had reached a conclusion that there was no measurable impact on any of the neighboring property owners wells. So, they now come before Board tonight and hear that suddenly there is an issue. It is rather astonishing. The critical data does not support it. The conclusion of the Town Engineer doesn't support it and the data doesn't support it. A few homeowners showed up and expressed concern. I understand their concern that the test proved…

Mr. McConnell: I think they expressed more than simple concern. We had one homeowner that showed since the testing was done that her well had silted up. The amount of sediment in her filter had increased.

Mario Martinez: I think you are incorrect about that. That well was that way before us. We have been more than cooperative. We have done whatever you had asked us to do. Now, we are going a little extreme here.

Mr. McConnell: The well would have to be drilled anyway. Isn't that true?

Mario Martinez: Yes. When the houses are built.

Mr. Astorino: I understand the applicant's point. As a Board, I think our biggest concern was to make sure there was not an issue as far as water out there. We had (4) or (5) people that came before the Board at the last meeting that said they had 1 g.p.m. or less.

Mario Martinez: They had that before we got there.

Mr. Astorino: True.

Mr. Showalter: That area in the Town is known for low water.

Bob Krahulik: Two wells are drilled as required by the County. Above and beyond the County's requirement, this Board required us to drill (2) more wells. We then went out and monitored (22) neighboring property owners wells. Zen, correct me if I am wrong, but I believe the conclusion of those tests established that there was no measurable impact at any of the property owner's wells. If there was, I would say fine that we have an issue here.

Mr. McConnell: If the next (4) wells don't produce a measurable impact we would be further along to being convinced by your argument. Four wells is not enough to convince me of your argument.

Mario Martinez: You said exactly the same thing when we were at (2) wells. You said do (2) more so that we would have water assurance to approve this project. Now, I am hearing the same thing.

Mr. Astorino: As a Board, we had seen some issues that were brought to the Board from the last public hearing and the results that it was a potentially a water deficit area. If you look out there, your wells alone, two of those wells were over 700 feet. Is that correct?

Mario Martinez: Yes.

Zen Wojcik: Yes. They were at 800 feet.

Sergio Smiriglio: That was so we could get 7 to 8 g.p.m. that is required in order to do a 24-hour pumping test for the minimum of 5 g.p.m.

Bob Krahulik: The issue wasn't whether or not there would be adequate water on site. We had already agreed to drill wells before a building permit is pulled. The issue was the impact it would have on the neighboring property owner's wells. The test established that there was none. If there was an impact, we would agree that further testing should be required. We had reached a conclusion that there was no issue.

Sergio Smiriglio: Keep in mind that we pumped at twice the average daily demand. Over that 24-hour period, if there was going to be an impact, we should have seen it in at least one or two houses. We did not see anything.

Mr. Bollenbach: Are you saying that the 4 test wells were pumped at 5 g.p.m.?

Sergio Smiriglio: They were pumped at 2.5 g.p.m.

Mr. Bollenbach: I thought you said 5 g.p.m. I just wanted to correct that.

Sergio Smiriglio: The first (2) wells that we tested were at 5 g.p.m. as per the Health Department. This test was conducted at the same rate that was spread out over (4) wells. It was still the same amount of water.

Mr. Bollenbach: I just wanted to correct that the 2.5 g.p.m. as opposed to 5 g.p.m.

Mr. Astorino: Zen, as far as the results, tests, and what we heard from the public, I know in the past this Board has always made sure before we would give an approval that there was enough water on site and it did not affect the neighbors. If this Board doesn't feel comfortable with that fact regarding the (4) wells drilled, we have done it in the past and we will do it again. We want to be at a comfort level that we feel is not affecting the community at large.

Mario Martinez: I would not build a house unless we had water on it. That is why I said that every time we go to pull a building permit, we would drill a well. I would be crazy to build a home without water. That goes without question. That is for my protection. As far as your protection, we have given you that protection to the extent that we can. We have gone through great time and expense to get the right people on site to do what they had to do. I don't see anything in the written reports that even Tectonic agrees to other than one neighboring well with a minor impact that the Board all of a sudden is turning on its word to drill (2) more wells, then we would be finished. Now, you are saying to do (4) more wells. What is to prevent you next time when I come back in 6 months with another (4) wells and you say to us to do another (8) wells? We have no assurance at this point.

Mr. Astorino: Let us make one thing clear. This Board did not give any approvals to this project whatsoever at this point. We are in the process of getting information. If the Board has an issue, we are going to work through it.

Mario Martinez: The issue was unfounded.

Mr. Astorino: That is yet to be determined. We have heard some issues. The Board has heard some concerns. We could get our professional involved a little deeper if we had to in order to work this through. I had some concerns hearing the public the last time. It seems to me that the area has an issue with water. We have known this. That is why we are proceeding with caution.

Mr. Bollenbach: I don't think this issue is going to be resolved right now. We should go through the rest of the comments tonight.

Mr. McConnell I just want to correct the record. I don't believe we said to drill (2) more wells and we would be ok. I just wanted to correct that.

Mario Martinez: Those weren't the exact words.

Mr. McConnell: If that was what you inferred from, then I apologize. But, that is not what was intended.

Mario Martinez: Don't forget, what was required by the Health Department was (2) wells. We agreed to (2) wells.

Mr. Astorino: The Health Department doesn't give the approval.

Mario Martinez: I understand that. But, we agreed to (2) more wells and monitor them to be assured that we were not impacting the neighbors. I don't think (4) more wells would give you any more of a comfort level to what we have now.

Mr. McConnell: It is not going to give you any more of a comfort level.

Mario Martinez: It is spending money for no reason. That is all it is.

Mr. McConnell: I stand by the point that the wells would have to be drilled anyway.

Bob Krahulik: What lots do you want the wells drilled on?

Mr. McConnell: We had a discussion on that. We would have your engineer work it out with our engineer.

Mario Martinez: The problem is that our expert is saying there is no measurable impact. Tectonic is saying the same thing. The Board is choosing to do otherwise.

Mr. McConnell: Ok. And?

Mario Martinez: There is no and. That is what I want to have on the record.

Comment #5: Show limits of improvements to Spanktown Road. Provide details and notes.

Keith Woodruff: We could do that.

SWPPP Comments

Comment #6: Identify the forebay on the plans for the proposed pond.

Keith Woodruff: We could do that.

Zen Wojcik: All of these other comments, we have gone through before.

Mr. Astorino: Ok. We will list comments 6 through 14 for the record. Do any Board members or Professionals have any comments?

Comment #7: Provide Emergency Spillway in proposed pond and include details.
Comment #8: Prepare a Landscaping Plan for the stormwater pond(s) and buffer area(s) consistent with the Design Manual.

BEFORE FINAL APPROVAL

Comment #9: Provide the declaration and the recording information on the plan for current Ridgeline Overlay Notes, Agricultural Protection Notes and Open Space Conservation. Provide the declaration and the recording information on the plan for Homeowner's Association ownership and maintenance of stormwater management facilities. Indicate easements on plans and include descriptions in deeded declaration.
Comment #10: Applicant to offer dedication of R.O.W. strips along Spanktown and Jessup Roads to Town. Show on Survey Sheet and provide offer to Planning Board Attorney for review.

Comment #11: Provide offer of dedication of Hampton Drive to Planning Board Attorney for review.
Comment #12: Pay performance bond and construction inspection fee for Town road, stormwater management facilities and erosion control.
Comment #13: Pay parkland fees.
Comment #14: Pay outstanding review fees.

Mr. Showalter: The evidence that this Board member has seen, I respect all of you gentlemen. When you drill a hole 700 feet into the ground and you get 2.5 gallons of water out of it, it has its yield. I tend to believe that is a little on the light side. It is probably in the legal limits according to what everybody is saying. I am not an expert either. What I have studied and seen personally in my life, I think it is a little bit light. What happens if it is dry in the summer? We get these concerns from residents all the time.

Sergio Smiriglio: Hydro-fracturing or surging improves wells because there is water there. You just need to open it up.

Mr. Showalter: What I understand you are trying to get that to drain.

Sergio Smiriglio: It is not draining. We have cracks in rock. We open it so that water could pass through. That is the problem here in Warwick. On Spanktown Road, a fault system runs through there. Along the road, the yields are poor. Up behind on the hill, the yields are better. It doesn't mean that the water is not there. It is just the wells can't get to the water. It is not an indication that there isn't water there. There are large wetlands right there. It is a matter of it getting to the wells.

Mr. Showalter: My concern is for the residents. Maybe, we could do something to the close neighbors by hydro-fracturing their wells.

Mario Martinez: That could be discussed. I rather discuss that then keep on drilling wells. That is not going to solve their problems.

Mr. Showalter: I agree with that Mr. Martinez. The objective here is for everybody to meet at a happy medium.

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

Mr. McConnell: The monitoring seems to be one of the points objected to here with drilling more wells. I just asked Zen regarding the last monitoring; I think we used a figure of 1000 feet. If the facts of that monitoring warranted, maybe we could discuss reducing the size of the monitoring area for the next wells drilled. It could be something to consider.

Mr. Astorino: That is something we could discuss at the next work session. Let us open it up to the public. This is a public hearing. If there is anyone in the audience wishing to address the Hampton Hill application, please rise and state your name for the record.

Nancy Kobylowski: First, I want to say thank you for all your consideration of listening to all of us at the last meeting that had concerns on the water. Mr. Martinez is half-correct on the water. Our water has been since we have lived in that house has not been so great. But, he is totally wrong since the last couple of years since they have been working there, our water has gotten worse. That was the sample that I brought in and left. It was only a week or so before that, I had to have a plumber come in and install that other filter that I took a picture of. That has not been going on since I have lived at the house. It has gotten worse. Our well is 146 feet. That is another reason why we have a concern. They are drilling wells at 700 feet and ours is at 146 feet. Who is going to have water? He has to take into consideration that there are houses that have been there for a long time. My house has been there for 45 years. Eventhough it has been a small impact on the Kobylowski well it was an impact. I just wanted to stress that it had sediment in there the one that I left here. The other concern that I have, I know they are giving 78 acres to the Audubon Society. There was another guy that was here the last time that mentioned maybe they would put something up there for the birds and sightseeing, which is all nice and pretty. My concern is with traffic that is there. Spanktown Road and Jessup Road is a bad intersection. You will be adding more traffic. Where will this parking be? That will add more traffic there at that unsafe intersection. I know that they will be resurfacing the road. That has nothing to do with taking away the spots where you can't see where it is already dangerous right now with the small amount of traffic that we have right now. I wanted to make sure that was still a concern. That is it. I appreciate all of you that have been trying to work together to make sure that everybody would have quality and quantity of water.

Mr. Kowal: You said that your house is 45 years old. How long have you been in that house?

Nancy Kobylowski: I have been in the house 10 years.

Mr. Kowal: Have you had any problems with the water running out?

Nancy Kobylowski: No. I have never had any problems with water running out. Our well is only 146 feet. I know that our neighbor's well was at 300 feet. They are only getting the 1 g.p.m.

Mr. Astorino: When did you install your filters that you had trouble with the filters? Was that done a couple years ago?

Nancy Kobylowski: No. I was having some problems. My husband was changing the filters constantly. You had seen how black it was. It wasn't too long before the last meeting that I was here when I took the pictures. That was just installed. It is not just all of a sudden. Our water turned black. There was sediment there. It has gotten worse since the work has been going on for those wells.

Mr. Bollenbach: Regarding the Audubon Society, they are generally low impact. Sometimes they might have a little road widening or a pull off area for a vehicle or two. It is very low impact. The closest one to the site is down on Spanktown Road just past the Stony Creek Inn on the left hand side.

Nancy Kobylowski: Yes. I know that.

Mr. Bollenbach: You have to look close to where that little pull off is. It is not that big. Generally, they don't develop the property. They keep it relatively at a natural state or they might have some trails that they might develop.

Nancy Kobylowski: Ok. That is good. I have been down there.

Mr. Bollenbach: Traffic impact is a concern. The Board will review that.

Nancy Kobylowski: Ok. Thank you.

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

Klaus Berg: We live on Spanktown Road. Our property is approximately 80 to 100 feet below the Hampton Hill project. We have concerns about runoff coming onto our property.

Zen Wojcik: This project has a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the State regulations. Part of the regulations is that no more runoff comes off the site after it is constructed then it comes off before it is constructed. They have done calculations. They have satisfied that regulation. If you have a problem now with stormwater coming onto your site, they are not necessarily going to fix that. It may occur because of where ponds would be located. It may mitigate what is happening on your property, but not necessarily. However, it is simply not going to make it any worse.

Klaus Berg: Ok. My other concern is that there are a couple of trees there that are dead which might fall onto our property at anytime.

Mr. Astorino: You could go out and mark the dead ones. I am sure that would not be a problem for the applicant.

Klaus Berg: Ok. Thank you.

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

John Galiski: I live on Jessup Road. Where are the test wells? Could you show me where they are?

Keith Woodruff and Sergio Smiriglio show the map to Mr. Galiski on where the test wells are located.

John Galiski: Was there test wells on top of the hill?

Mr. Astorino: Yes.

John Galiski: The majority of the properties that are affected are located below the hill.

Sergio Smiriglio: I don't know what you mean by affected.

John Galiski: There are (20) homes going up on top. That would be (20) wells.

Mario Martinez: There are (16) wells on top and (4) wells on the other side.

John Galiski: You will be drawing more from this area in relation to this area.

Mr. Astorino: Was your well tested?

John Galiski: Yes. My well was at 300 feet. I get 1 g.p.m.. That was done in 1968.

Mr. Astorino: Have you ever run out of water?

John Galiski: No. I have never run out of water. I am very conservative about it because I realize that I don't have that much. I know that the people across the street from me when they first moved in they came from Staten Island. I remember a gentleman being out there washing his car and watering his lawn which lasted only about ½ hour. He came over and asked me why his water was brown. I know that the other wells across the street from me are down about 600 to 700 feet on the existing homes that are there. They had a lot of problems. They moved some of the wells on top of the hill. I was just questioning to where they were. Thank you.

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

Art Sullivan: I live on Taylor Road. I have lived there approximately 40 years. I have a pounded well about 130 feet deep. I never had a filter on it until this past Fall. The well has been in there 44 years. In the Fall, I noticed that I had a problem with a ball valve that froze up. I called a plumber in. He cleaned it out. We discovered that my pressure tank was full of sand.

Mr. Astorino: Was this in the Fall of 2007?

Art Sullivan: Yes. Whatever was done in the well field late last summer or early fall, it affected me and I know that it affected people across the street from me. It appears that it was the last (2) wells that had caused the problem. I don't know what the timing was on wells 3 and 4, but my problem started in late October or early November. I am ½ mile away from that field. You are going to put in more wells, am I going to have more problems?

Mr. Astorino: Were you close enough to be tested? Did they contact you to be tested?

Art Sullivan: They did contact me. I responded. I never heard from them.

Mr. Astorino: You were within 1000 feet of these wells.

Art Sullivan: It might not have been their problem because the Warwick Post Office brought the letter back to me.

Mr. Astorino: Did you send those letters out certified mail?

Sergio Smiriglio: Yes. He is talking about his response letter that we never received.

Mr. Astorino: Ok. What was your end result? You said you put a filter in.

Art Sullivan: I put a filter in. I take it that they haven't done anymore drilling because the problem is settling out.

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

Glen DeJong: I live on Jessup Road. I know that it is a cluster development. So, lot sizes don't have to meet the minimum requirements. What about wells in relation to septics regarding setbacks.?

Mr. Astorino: They have to meet the requirements. They also have to meet the minimum lot requirements.

Zen Wojcik: There is 100-foot separation between the well and septic if the septic is downhill of a well. If a septic is uphill from a well, it is 200 feet. All of the lots have to comply with that.

Glen DeJong: Ok. I know that when we built our house we had those stipulations. We had a limited spot where we could put our well. They are getting into a specific lot area to where they are not drawing water where the planned well is. What type of provisions would they have to make that lot work?

Mr. Astorino: They will have to meet the requirements.

Glen DeJong: Realistically, there could be lots that have been rendered useless because they cannot find water. In my experience of dealing with builders, many of these things would drag. They won't improve the roads to make it satisfactory because they haven't been able to close out the neighborhood.

Mr. Astorino: It doesn't work that way here. The improvements get done before.

Glen DeJong: But, they don't turn over the road until the development is completed.

Mr. Astorino: Let me give you a quick rundown. The stormwater has to be put into place. The road has to be done to certain specifications before the Town would think about dedicating it. They can't build a house until certain steps take place. There will be a bond put in place. There are safeguards there that they can't put in a dirt road and start building houses.

Glen DeJong: Are they going to have a certain layer of blacktop done to satisfy? It won't be to where you would take it over. They would still have to come back and improve it once they are done constructing the neighborhood.

Mr. Astorino: The only thing that would be left would be the topcoat of asphalt. All of the sub-base, binder, and storm drains have to go through the requirements. Tectonic will do the inspections. A bond will be put into place. The Town deems when they want to put the topcoat down to finish the project.

Glen DeJong: That is always a sticky issue. Many times builders would leave a house or two that they don't finish. It drags out. It would be cheaper for them to abandon it.

Mr. Astorino: If they abandon it, we have their bond. We would then contract it out.

Glen DeJong: Sometimes the bond might not cover it. My fear is if they get a couple of lots that don't prove to be useful to meet the requirements, maybe they would not finish it or satisfy.

Mr. Astorino: They would have to.

Glen DeJong: Then the taxpayers would have to pay.

Mr. Astorino: No. That is the reason for the bond so that it doesn't fall on the burden of taxpayers.

Glen DeJong: We all know that water is an issue. I don't want to beat a dead horse. I know that when we built our house, we had to do 200 feet. We are downhill.

Mr. Astorino: Exactly. They would have the same restrictions.

Glen DeJong: Ok. Thank you.

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

Gary Janiak: I came to the last Planning Board meeting and mentioned that we have (3) wells on the property. They were over 500 feet. They were hydro-fractured.

Mr. Astorino: What were the gallons per minute?

Gary Janiak: They were a little over 2.5 g.p.m..

Mr. Bollenbach: Was that for all (3) wells?

Gary Janiak: The first original well is dead. There is no water. The 2nd well, you could have (4) days of rain and you would never know when it would go dry.

Mr. Astorino: Basically, you rely on one well that was drilled at 500 feet and it was hydro-fractured. You get 2.5 g.p.m..

Gary Janiak: Yes.

Mr. Bollenbach: What is your address?

Gary Janiak: I live on Jessup Road.

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

Bruce Hardin: I live on Jessup Road. I have lived in the house 25 years. My original well had caved in. I filled it. We had to drill a new well. It was drilled at 590 feet. I had to have it hydro-fractured. I only get 3 to 5 g.p.m..

Mr. Astorino: When was that done?

Bruce Hardin: It was done 12 years ago. Over the summer for a 6-month span, we had a sulfur issue. That has passed. I don't know if that is common.

Mr. Bollenbach: Did you experience a problem previously?

Bruce Hardin: No.

Zen Wojcik: That is not common.

Bruce Hardin: It is clear now. It took a lot of time. I didn't know if it was ever going to go away. I just wanted to let the Board know about this.

Mr. Astorino: Is there anyone else wishing to address the Hampton Hill application? Let the record show no further public comment. Does the Board want to discuss this at Monday night's work session on 4/7/08?

Mr. McConnell: Yes.

Mr. Astorino: We will discuss this at the 4/7/08 work session. We will need to adjourn the public hearing to another meeting date.

Mr. McConnell makes a motion to adjourn the Hampton Hill public hearing to the May 21, 2008 Planning Board meeting.

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

Mr. Astorino: To let the residents know who came out for the Hampton Hill public Hearing, the Hampton Hill public hearing has been adjourned to the May 21, 2008 Planning Board meeting. This is your notice. You will not receive another notice or it will not be advertized in the Dispatch. That is the date.

PUBLIC HEARING OF Bing and Elizabeth Nop #2

Application for Final Approval of a Proposed 35-Lot cluster subdivision, entitled, ***"Meadowbrook Farms",*** located on tax parcels S 29 B 1 L 65.12 and L 63; and situated along the northwestern side of Union Corners Road across from Sargent Road, in the RU/AI zones, of the Town of Warwick, County of Orange, State of New York. Preliminary Approval was granted on August 3, 2005. Continued Public Hearing from the 3/5/08 Planning Board meeting.

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

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
   A. Amended Negative Declaration
2. Applicant to discuss project.
   A. Status of approvals

YIELD PLAN

PLANS DATED 12/24/2002 BY ESPOSITO & ASSOCIATES;
REVISED 2/17/2005 (33 lots), 3/5/2008 (34 lots), 3/20/2008 (35 lots)

3. Planning Board achieved consensus on a 33-lot Yield Plan on May 18, 2005.
   a. Applicant has expressed a desire for a 35th lot, to subdivide the "tenant farmer house" from the farmstead. Applicant has revised Yield Plan, Environmental Control Formula, and has performed percs & deeps to verify suitability of Yield Lots. Applicant to discuss.

CLUSTER PLAN

4. Several of the species noted on the Landscaping Plan are not listed on the Plants List (i.e. Fp, Lp, Qp). All proposed plantings should be listed on the Plants List. Contrary to the transmittal letter, the Landscape Plan shows no stormwater management facilities plantings. Call-out a proposed grass seed type for the Surface Sand Filters. As noted in the *Design Manual*, the grass should be capable of withstanding frequent periods of inundation and drought.
5. Place approved road names on Subdivision and Overall Plans. It appears that "Nop Road" is a logical continuation of the entrance road, and the entrance road is labeled "Nop Road" on the plan views. Stationing should be continuous from Union Corners Road through the roundabout and the "Entrance Road Profile" should be relabeled.
6. Lots #8 and #10 have the same 9-1-1 address. Revise. Also, include a 9-1-1 address for Lot #34.
7. Proposed construction of dedicated roads shall comply with revised §A168. Provide testing results and pavement design calculations for Town Engineer's review and approval before final approval.
8. Show a construction limit line across the "paper street" (stub road) at Falkena Circle.
9. The Soil Stabilization and Federal Wetland symbols at the entrance road on the Erosion Control Plan are virtually identical. Differentiate.
10. Remove the turnaround in the entrance road.
11. At the Subdivision Entrance Detail (sheet 5) and on the Landscape Plan, include the sight triangles and include a note that the area of the triangles shall be kept free from visual obstructions.

SWPPP COMMENTS (LAST REVISED 11/7/06)

12. The reference at the Surface Sand Filter Details to the seeding schedule is inaccurate. Revise.
13. For runoff from the entrance road (Area C1 and Area B Undetained), include a discussion of how the water quality requirements will be met. Provide any correspondence from NYSDEC necessary to support the proposed methodology.

BEFORE FINAL APPROVAL

14. Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, Open Space Conservation, and Homeowner's Association.
15. Provide the declaration and the recording information on the plan for maintenance of stormwater management facilities, and for drainage easements.
16. Provide, for Town Board approval, an offer for dedication of the roads and a petition to form a drainage district.
17. Applicant to provide signed and sealed copy of the final revised SWPPP, including a copy of the signed and submitted NOI.
18. Surveyor to certify that iron rods have been set at all property corners, monuments set along Town road right-of way, and stone cairns have been set at corners of open space.
19. Pay performance bond and construction inspection fee for Town roads, stormwater management facilities, and erosion control.
20. Pay a 3-year term landscape bond and inspection fee for street trees, screening plantings, and hydric plantings at stormwater management facilities.
21. Pay parkland fees.
22. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 4/2/08:

Meadowbrook Farms - Is this a 33 lot, 34 lot or 35 lot subdivision? Almost three years ago the Planning Board achieved consensus on a 33 lot subdivision. Why are we talking about more than 33 lots? CB recommends that yield be fixed at 33 lots and no further subdivision.

The following comment submitted by the ARB, dated 4/2/08:

Meadowbrook Farms – None Submitted.

Comment #1: Board to discuss SEQR.

A. Amended Negative Declaration

Mr. Fink: The Planning Board had previously issued a Negative Declaration on this application. We had discussed at the work session for the need for amending the Negative Declaration as result to changes to the proposed project. It involved the relocation of the access roadway as well as the lot count. In order to complete the changes to the Negative Declaration and prepare it in a form where it would constitute an amended Negative Declaration, we needed a number of facts and figures from the applicant regarding the additional number of linear feet of the proposed roadway and the amount of open space that would be conserved as part of the conservation subdivision. What I have done was made changes to the adopted Negative Declaration. I put a title on it called the Amended Negative Declaration. Also, in the second paragraph on the first page of it there was a discussion of why the Negative Declaration was amended. This document is now in a form where the Planning Board could adopt it tonight. Then,

it could be filed in accordance with the requirements of SEQR. In the Amended Declaration are the involved or interested agencies that would need to receive a copy of this amended Negative Declaration once the Planning Board has adopted it.

Mr. Bollenbach: There is still a concern regarding the lot count. I believe the percs and deeps have not been done yet to approve the yield for the 35 lots. I think it is still premature.

Zen Wojcik: John, we received that today.

Mr. Bollenbach: Ok. Let us go through everything before we take action on SEQR to make sure everything is in place.

Mr. Astorino: Zen, did those percs and deeps meet the requirements?

Zen Wojcik: Yes. They were fine.

Mr. Astorino: Do you have the results in hand?

Zen Wojcik: Yes. We have the results in hand. I spoke to the Inspector. We had a conversation about it. They proved the number of lots that they want to have for yield.

Mr. Astorino: Ok.

Mr. Bollenbach: While we are on that, has the testing been completed for the road?

Zen Wojcik: That hasn't been done yet.

Mr. Astorino: Ok.

Comment #2: Applicant to discuss project.
A. Status of approvals

Dave Higgins: When we submitted to the Planning Board for final approval several months ago, at the time we had approval from OCHD for realty subdivision and the septic systems. We also received a sign-off from the ACOE related to the wetland impacts. We were awaiting final sign-off from the DEC and OCDPW with regards to the proposed highway entrance permit. The OCDPW, you might recall that they had requested and required that we relocate the road entrance to where it is shown on the map today. We revised the maps. We reflected all of the changes. There is much greater reduction of wetland disturbance. We are now completely out of the DEC wetlands and the 100-foot buffer. We have .08 acres of wetlands disturbance on the ACOE wetlands, which is below the 1/10th of an acre threshold. We submitted to the ACOE for pre-construction notification. There was correspondence that came from Brian Orzel, ACOE several days ago indicating that due to their workload the anticipation of letting the 45-day pre-construction notification period lapsed. After which, we would have our approval under General Permit #29 for residential fill. We are still waiting for DEC permit approval. We anticipate that we will get it. They had given us a notice of complete application with the plan as we had it before with all sorts of disturbance inside there. We anticipate that they will be happy with the change. We are waiting for them to process the paperwork. As we reworked the yield plan, we now have some clarification. There is one additional lot as to what was originally proposed. We also

have clarification of the farm lot that was originally proposed. Instead of 33 lots, it is now 35 lots proposed. We anticipate that we will have to go back to the OCHD. We would anyway for the final sign-off on the subdivision. We will go back to them to make sure they would accept those (2) additional lots.

Mr. Astorino: Ok.

YIELD PLAN

PLANS DATED 12/24/2002 BY ESPOSITO & ASSOCIATES;
REVISED 2/17/2005 (33 lots), 3/5/2008 (34 lots), 3/20/2008 (35 lots)

Comment #3: Planning Board achieved consensus on a 33-lot Yield Plan on May 18, 2005.

a. Applicant has expressed a desire for a 35th lot, to subdivide the "tenant farmer house" from the farmstead. Applicant has revised Yield Plan, Environmental Control Formula, and has performed percs & deeps to verify suitability of Yield Lots. Applicant to discuss.

Mr. Astorino: We just heard that they have met the criteria. Zen, is there anything else? Are we up to speed on this?

Zen Wojcik: Dave and I had a meeting on Friday to go over the yield plan. We touched on all the points relative to approving the number of lots. There were percs and deeps taken in a number of places. When this version of the yield plan was reconfigured by Mr. Esposito, more of the lots were brought into line with the ECF. Right now, I would say that the yield plan suits what they are requesting at this time, which is 35 lots.

Mr. Astorino: Are these comments the same as the last time?

Zen Wojcik: These are the same comments that we had at the March 5th meeting.

Mr. Astorino: Do you have any comments on any of these comments?

Dave Higgins: During that meeting, we talked about monumentation. We spent some time picking out where we would show monumentation on the plans. It was my understanding that the monuments are bonded so if grading is required during the course of road construction and not ripping out all the monuments then having to replace them later. We would just include the monuments and the bonds for the project.

Zen Wojcik: That is also to make sure, because the project is not going to be built by the Nops. They will be selling off the lots. I think that is something that administrable, it will work out. John, is that right?

Mr. Bollenbach: Yes. It all depends. That is something that would be left up to the Board's discretion. It would be up to the Board's discretion on how many pins they would like to see or bonding of all of them.

Mr. Astorino: Regarding the road specifications, have you done testing out there?

Dave Higgins: I had a discussion with Ed Butler and Zen about the nature of testing that has to be done for the scope of that work. We have contacted several firms. Both of them had provided proposals to the applicant. He is in the process of retaining one of those firms. We will be coordinating that work scope with Tectonic.

Mr. Astorino: Ok. We will need to see that. We will list comments 4 through 22 for the record. Do any Board members have any comments?

CLUSTER PLAN

Comment #4: Several of the species noted on the Landscaping Plan are not listed on the Plants List (i.e. Fp, Lp, Qp). All proposed plantings should be listed on the Plants List. Contrary to the transmittal letter, the Landscape Plan shows no stormwater management facilities plantings. Call-out a proposed grass seed type for the Surface Sand Filters. As noted in the *Design Manual*, the grass should be capable of withstanding frequent periods of inundation and drought.
Comment #5: Place approved road names on Subdivision and Overall Plans. It appears that "Nop Road" is a logical continuation of the entrance road, and the entrance road is labeled "Nop Road" on the plan views. Stationing should be continuous from Union Corners Road through the roundabout and the "Entrance Road Profile" should be relabeled.
Comment #6: Lots #8 and #10 have the same 9-1-1 address. Revise. Also, include a 9-1-1 address for Lot #34.
Comment #7: Proposed construction of dedicated roads shall comply with revised §A168. Provide testing results and pavement design calculations for Town Engineer's review and approval before final approval.
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Comment #9: The Soil Stabilization and Federal Wetland symbols at the entrance road on the Erosion Control Plan are virtually identical. Differentiate.
Comment #10: Remove the turnaround in the entrance road.
Comment #11: At the Subdivision Entrance Detail (sheet 5) and on the Landscape Plan, include the sight triangles and include a note that the area of the triangles shall be kept free from visual obstructions.

SWPPP COMMENTS (LAST REVISED 11/7/06)

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BEFORE FINAL APPROVAL

Comment #14: Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, Open Space Conservation, and Homeowner's Association.
Comment #15: Provide the declaration and the recording information on the plan for maintenance of stormwater management facilities, and for drainage easements.

Comment #16: Provide, for Town Board approval, an offer for dedication of the roads and a petition to form a drainage district.
Comment #17: Applicant to provide signed and sealed copy of the final revised SWPPP, including a copy of the signed and submitted NOI.
Comment #18: Surveyor to certify that iron rods have been set at all property corners, monuments set along Town road right-of way, and stone cairns have been set at corners of open space.
Comment #19: Pay performance bond and construction inspection fee for Town roads, stormwater management facilities, and erosion control.
Comment #20: Pay a 3-year term landscape bond and inspection fee for street trees, screening plantings, and hydric plantings at stormwater management facilities.
Comment #21: Pay parkland fees.
Comment #22: Pay outstanding review fees.

Mr. McConnell: Dave, is 35 lots it? It seems to be growing.

Dave Higgins: Yes. We are done growing.

Mr. Astorino: It was the farmhouse that made it the 35th lot.

Mr. Bollenbach: It was the farmhouse and the tenant house.

Mr. Astorino: That makes sense. Do it now. We have a comment from the Conservation Board, dated 4/2/08. That is not their issue.

Mr. Fink: The Negative Declaration does reflect what the Conservation Board had said. It talks about 33 new single-family dwellings. That is from a SEQR standpoint. We are not talking about new residential dwellings. We are talking about (2) existing dwellings. The Negative Declaration does reflect that.

Mr. Astorino: Thank you. This is a public hearing. If there is anyone in the audience wishing to address the Meadowbrook Farms application, please rise and state your name for the record. Let the record show no public comment.

Mr. Bollenbach: Ted, do you want to take action on SEQR? We could take action right now, but this will have to be re-noticed. We are going to have another meeting. This will have to be adjourned. We still need the road testing.

Mr. Astorino: Yes. But, if SEQR is up to speed as Ted had pointed out, we could take action.

Mr. Bollenbach: Ted, is everything up to speed?

Mr. Fink: The main issue was being able to substantiate the 35 lots, which has been done. The road testing is an engineering issue. I think we have everything else covered in the amended Negative Declaration.

Mr. Bollenbach: Could you comment a little about the road relocation the access out onto the County Road?

Mr. Fink: Although, it was previously proposed in an area that was subject to the State Protection of the freshwater wetlands, this actually reduces the amount of land area that would be disturbed. It does have slightly more of a visual impact. It does remove the previous impact, which we had determined at that time the only desirable access into the site. The Negative Declaration has removed any of the language in here about direct impacts to the DEC wetlands. It does discuss indirect impacts which is always possible during the construction stage. It does make reference to the SWPPP. Adherence to that, it is part of the Negative Declaration.

Mr. Bollenbach: Was it the County that required that relocation to improve the sight distance?

Mr. Fink: Yes. Within the Negative Declaration, there is a reflection here of the fact that the OCDPW so that they would get it, but they would only approve the proposed entrance from the County Highway if it was moved a distance of 1000 feet west from its originally proposed location into the site. The Negative Declaration has been amended in that regard.

Mr. Bollenbach: You had also said with the reconfigured road there would be a increase in visibility. Is there any mitigation proposed? If so, what would that might be?

Mr. Fink: The applicant had proposed fairly extensive landscaping along the newly proposed road. We have a whole sheet on the subdivision plan that indicates all the landscaping that is proposed along that area. It is fairly extensive.

Mr. Bollenbach: In your professional opinion, is that revised location of the road suitable?

Mr. Fink: I think it is the only option that we have at this point. It does constitute slightly more roadway that would have to be maintained by the Town. I think it was 3400 feet of Town road. Now, it is 4750 feet of new road. The Negative Declaration does make reference to that. There is a smaller amount of open space as a result of it. We were up over 70%. Now, it is below 70% as a result of the elimination of some of the open space. It is still well above the 50% that is required by the code.

Mr. Bollenbach: Is it your opinion that all the potential adverse environmental impacts have been adequately mitigated?

Mr. Fink: Yes.

Mr. Bollenbach: Ok.

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

Seconded by Mr. Singer. The following Resolution was carried 5-Ayes.

617.12(b)

State Environmental Quality Review (SEQR)

Resolution Authorizing Filing of Amended Negative Declaration

Name of Action: Meadowbrook Farm Subdivision

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed 35 lot subdivision, Town of Warwick, Orange County, New York, and

Whereas, there are other involved agencies pursuant to SEQR, and

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 12/30/02 as well as additional information provided by the Orange County Department of Public Works and the applicant, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

Now Therefore Be It Resolved, that the Planning Board adopts the findings and conclusions relating to probable environmental effects contained within the attached EAF and Negative Declaration and authorizes the Chair to execute the EAF and file the Negative Declaration in accordance with the applicable provisions of law, and

Be It Further Resolved, that the Planning Board authorizes the Chair to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

Mr. Astorino: We will need to adjourn the public hearing. Dave, the ball is in your court?

Dave Higgins: What kind of lead-time would you need? We have to do the soil testing.

Mr. Bollenbach: We need the results 15 days prior to the meeting.

Dave Higgins: Could we adjourn to a date unspecified?

Mr. Astorino: We could adjourn it without date.

Mr. Bollenbach: It would have to be re-noticed anyhow.

Mr. Astorino: We will do that. We will adjourn it without date.

Mr. McConnell makes a motion to adjourn the Meadowbrook Farms / Nop #2 public hearing without date.

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

Mr. Bollenbach: Let explain that. It has to be re-noticed because originally it was for 33 lots. Now, it has changed to 35 lots. That is a significant change. It requires republication. We received an anonymous letter, dated 4/1/08 indicating that they had some objections to the relocation of the access road onto the County's highway and not having additional notice. The notice was posted in the Warwick Valley Dispatch and on the Town's website. They also received an actual notice if they are within the 300 feet from the project. I think that addresses the anonymous letter that we received on 4/1/08.

Mr. Fink: John, when this is re-noticed, that notice should reflect that the Planning Board adopted the Amended Negative Declaration on 4/2/08.

Mr. Bollenbach: Ok.

Mr. Astorino: Ok. Dave, the ball is now in your court.

Dave Higgins: Ok. Thank you.

PUBLIC HEARING OF Fred Gangemi #2

Application for *"Amended"* Site Plan Approval and Special Use Permit for the construction and use of a dock and house re-construction, situated on tax parcel S 74 B 5 L 49.1; located within "A Designated Protection Area" of Greenwood Lake, project located on the eastern side of Woodland Terrace (6 Woodland Terrace) 60± feet north of Forest Road, in the SM zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Jay Myrow, Attorney.

Connie Sardo: Mr. Chairman, we received the certified mailings for the Gangemi #2 public hearing as of yesterday.

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
   A. The reconstructed building foundation does not appear to be in the same location as shown on the approved plan.
   B. Applicant is proposing a revision to the previously approved plan.
3. Concrete bulkhead was constructed as part of the dock, per the permit. Provide details for the bulkhead.
4. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 4/2/08:

Fred Gangemi #2 – The CB has no further comments.

The following comment submitted by the ARB, dated 4/2/08:

Fred Gangemi #2 – None Submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board acting as Lead Agency had previously issued a Negative Declaration prior to granting the applicant final approval on this project. At this point, this consists of amended site plan approval with some minor amendments. At this point, I don't believe the Planning Board needs to take any further action.

Comment #2: Applicant to discuss project.

Karen Emmerich: This is a renovation of a building that is within 100 feet of Greenwood Lake. It is a residential structure. It was constructed 5 feet closer to the lake then what was shown on the approved plan. We are back before the Planning Board for approval.

A. The reconstructed building foundation does not appear to be in the same location as shown on the approved plan.

Karen Emmerich: Right. We have shown you an updated survey.

B. Applicant is proposing a revision to the previously approved plan.

Mr. Astorino: That is why you are here.

Karen Emmerich: Yes.

Comment #3: Concrete bulkhead was constructed as part of the dock, per the permit. Provide details for the bulkhead.

Karen Emmerich: We provided photographs. It was my understanding that was what you needed. I am not sure what else you need.

Mr. Astorino: Zen, is there anything else you need?

Zen Wojcik: We had asked for a copy of the permit.

Karen Emmerich: We have sent that.

Zen Wojcik: Yes. The copy of the permit referred to the fact that the bulkhead was going to be built as part of the permitted use. The permit is from the DEC and ACOE which is fine for the work that was done on the waterside of the land. However, landward of the lake is located in the designated protection area of Greenwood Lake for the Town, that work was not authorized by the Town. However, we would like to have a detail of what the bulkhead is, the size, the height of the bulkhead and any kind of dimensions that you could give us a sketch on regarding this. The "sketch plan" that was submitted with the permit is extremely sketchy. Today, I went to a website called www.maps.live.com, which is a Microsoft website. They mapped aerial photographs of most of Orange County. It you go to this site and take the bird's eye view which is oblique, the photos were shot in the winter of 2007. When you look at this site, you could see the bulkheads being built. Give us a little sketch.

Mr. McConnell: Give it to us with the dimensions and etc..

Karen Emmerich: It is shown on the survey.

Zen Wojcik: Give us some dimensions.

Mr. Bollenbach: We could add to comment #3, to the Town Engineer's specifications. Unless, the applicant would like to submit it to the Board for further review.

Mr. Astorino: I don't think that would be necessary.

Comment #4: Pay outstanding review fees.

Karen Emmerich: The applicant is aware of the fees.

Mr. Astorino: Do any Board members have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Gangemi #2 application, please rise and state your name for the record.

Jacob Best: I didn't realize that they were acknowledging that the building was built closer.

Mr. Astorino: That is the reason they are here.

Jacob Best: What do they plan to do about it?

Mr. Astorino: Have you seen the architectural? They have done extensive work. They have cut the roofline back.

Karen shows the architectural drawing to Mr. Best. Mr. Best takes a look at the work that has been done on the Gangemi project.

Jacob Best: The problem that I have with this is that it is still a view obstruction. We pay a lot of money for our lake views. Why is it that we keep getting higher? It is still a view obstruction.

Mr. Astorino: There is nothing in the code that says they could not have a view. It meets the code requirements. Again, why they are back before the Board is that they went out 5 feet further than they should have.

Jacob Best : How big is the deck now?

Mr. Bollenbach: The area was previously approved.

Mr. Astorino: As far as this roofline, I believe the ARB looked at this. They gave us a favorable recommendation. They way they cut this back; there is less visual impact on this building now than what was previously approved. It was built according to the specifications that were approved before they screwed up on their going out 5 feet more. The way they cut this back, you have less now than you did at the original approval of a visual impact.

Mr. Bollenbach: This is more in character with the keeping of it.

Jacob Best: Is it safe to say that the front of this building is the existing building that is built right now in this corner?

Mr. Astorino: It is built now. Where it is, it is built.

Jacob Best: Looking at the drawing, what is the distance from here to here?

Mr. Bollenbach: Karen, is he asking about the side yard?

Karen Emmerich: No. He is asking about the deck.

Jay Myrow: The deck is 12 feet out. The roofline originally was going to come out as a full pitched roof all the way out to the edge of the deck. The roofline now is cut back approximately 12 feet. By cutting back the roofline 12 feet, you cut back essentially a net of 7 feet that you would have had. You gain 7 feet of view by cutting the roofline back 12 feet.

Jacob Best: That would depend on where you are standing.

Mr. Astorino: Mr. Best, they have the right to construct a dwelling.

Jacob Best: I understand that. But, they don't have the right to construct or what they say 5 feet from here 5 feet back.

Mr. Astorino: Exactly. That is exactly why the applicant is back before the Board. They are in violation. This Board looked at that violation. We determined that it hasn't been done yet. We have heard from other Boards of this Town. We have heard from the ARB. We questioned on that as far as the view. I believe in the minutes of the last meeting when this was on, it would be in those minutes of their findings. We took our own opinions on this. We haven't acted on it yet. As far from what we see, it is less of an impact now even with that 5 feet going out on the deck. It is 5 feet more. That is why they are here. Having the roofline cut back, there will be less of a visual impact than you did at the prior approval.

Jacob Best: I disagree with that. Looking at the sketch drawing, your line-of-sight is within here. It is not up here. What I am suggesting just like everybody else, the neighboring properties do not put on a roof. They should just put up a deck. There is no reason for this roof to be protruding out in front of everybody else's property. All of our homes are lined up here. Everybody else has a deck. Nobody has a roof. There is no reason for it.

Mr. Astorino: Karen, if they went out the 5 feet extra, this roofline would have been right to the end. Is that correct?

Karen Emmerich: Yes.

Mr. Astorino: That would have been the entire roof right to there. The only thing different right now is this portion right here.

Karen Emmerich: Yes. The other thing to mention is that the lake does cross that property on a diagonal. The people that are to the west, their view is less obstructed because of the way the shoreline runs along that property.

Jacob Best: I am suggesting no roof over the deck. I brought in some pictures. I would like to make some comments on them. At the last meeting, I stated that the measurements were wrong. The measurements of the existing home were wrong. You as the Board, advised the applicant the go back and check the measurements and confirm everything.

Mr. Astorino: Zen, that was done. Is that correct?

Karen Emmerich: Yes.

Zen Wojcik: We have a survey that verifies where everything is.

Jacob Best: I understand that. I did this prior to any building.

Zen Wojcik: We have a survey from a licensed surveyor. The applicant had it surveyed by a licensed surveyor who signed and sealed the plan. Unless, you have another licensed surveyor to dispute that, that is a legal document. That is where this Board is standing. We have accepted it as a legal document.

Jacob Best: After that Board meeting, did they come back with verification?

Mr. Astorino: We have verification.

Jacob Best: That surprises me because we are now seeing that it was wrong.

Mr. Astorino: I don't understand why you don't get that. That was the reason why they are in front of us. It was wrong. It was a violation issue. We knew they were wrong from the get-co. They built it in the wrong spot. That is why they are back here. Otherwise, they wouldn't be back here.

Zen Wojcik: Mr. Chairman, if you recall, we had a previous architect here at a meeting standing in front of the Board admitting that he had made a mistake.

Mr. Astorino: I know that. This has been around quite awhile. The previous approval was granted.

Jacob Best: I understand that. My problem also was the measurements of the existing house.

Mr. Astorino: That is proved to be exactly where it is by that surveyor.

Mr. McConnell: Are you talking about the dimensions of the house or the location of the house?

Jacob Best: I am talking about the dimensions of the house.

Mr. McConnell: Is that shown by the surveyor the dimensions of the house?

Zen Wojcik: We have a survey of the house.

Karen Emmerich: Yes. It is shown on the plans.

Jacob Best: We also had an issue with the existing house that the corner was cut for the porch. Now, it is not. We have a percentage issue of what he is allowed to expand.

Zen Wojcik: Mr. Chairman, that was from the previous approval from this Board. This is old news.

Mr. Astorino: He had met the requirement.

Zen Wojcik: The Board gave him an approval.

Mr. Astorino: Exactly. We are here at this meeting not for lot coverage or percentages. That was all done prior.

Jacob Best: They got approval to expand 15%. What I am saying now, this was a complaint that we filled out. They are over their 15% allowance.

Mr. Bollenbach: Zen, what is your opinion? Do they exceed the 15%?

Zen Wojcik: The survey shows that the foundation was built to the size that it was supposed to be. We could have that checked by the Building Inspector.

Mr. Bollenbach: As it is shown, it complies.

Zen Wojcik: Yes. As it is shown, it complies.

Mr. Bollenbach: Ok.

Jacob Best: My question is that it was originally approved for 15% over. Is it now more than 15%.

Mr. Astorino: No. It is not.

Jacob Best: No. So, it is more.

Mr. Astorino: No. It is not more than 15%. It has to meet the requirements of the original approval. It can't go more than 15%.

Mr. McConnell: So that I understand this, let us boil it down to simple numbers. If it was 100 s.f., it was approved to be 115 s.f.. You are suggesting now that it is greater than 115 feet?

Jacob Best: That is correct.

Zen Wojcik: We will have it checked.

Mr. McConnell: If you have a question about it, we will have it checked.

Jacob Best: Ok.

Zen Wojcik: To the best of our knowledge, the surveyor checked it. This is what they did. They took that building and built it closer to the lake. That was why they came back to the Board.

Jacob Best: I thought they also came back before the Board for the 15%.

Mr. Bollenbach: No.

Jacob Best: I don't even have a big issue with the 15% overage. I am trying to stop the covered porch and obstructing views. That is what I am trying to stop. I am willing to look the other way on a few other things like the 15%.

Mr. Astorino: We are not willing to look the other way. That is not how this Board works. I understand your points. But, you are not giving us solid proof. What our engineer had said, he said that these plans were signed and sealed by a licensed surveyor. Tectonic reviewed them. They agreed to what is on those plans. If there is something on there that is not out there, then someone would be in serious trouble. If that building is bigger than that, then someone did something seriously wrong.

Jacob Best: I could prove that it was. But, what I am asking is to remove the covered porch. If that can't be done, then I am going to prove it.

Mr. Astorino: That is your right, if you wish to do that.

Jacob Best: The other concern that I have is a grading concern. In picture #4, you could see it is starting to erode.

Mr. Astorino: Is there a silt fence up here?

Jacob Best: There is no silt fence. There hasn't been a silt fence since the first month they started building.

Zen Wojcik: They have been shut down for over a year. I don't think anyone has done anything on the site. If there was a silt fence there, it was probably knocked down.

Mr. Astorino: If they start again, they would have to put it up again.

Jacob Best: In the meantime, they have sheathed and roofed the place. They could put windows in, but they can't put silt fence in.

Mr. Astorino: We asked them to do the roof. They came to us as this process started. I agree with you that the silt fence should have been up. It should be there. This Board does not do "enforcement". As a Board, we don't run out there and inspect sites. Since you brought it to our attention this evening, it will be taken care of.

Jacob Best: My concern with the eroding is that there is so little ground covering between the neighboring houses. I am requesting that they send the gutter liters into underground piping.

Mr. Bollenbach: That is something the Board could consider.

Zen Wojcik: Frankly, on that side there is a big piece of a rock. If you put underground piping in, I don't know where it would go.

Jacob Best: I did it to my house right next door. I piped it right out to the lake. I did everything.

Mr. Astorino: Did you say that you piped yours right out to the lake?

Jacob Best: Yes. I did.

Zen Wojcik: That is interesting. Is that on your approved plan?

Jacob Best: Yes.

Zen Wojcik: Really?

Jacob Best: It is just gutter lines.

Mr. Astorino: That is very interesting. I like to see that plan. Do you have anything further?

Jacob Best: That is it.

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

Mr. Singer: Mr. Chairman, this gentleman is telling us that there is more than 15% lot coverage. Zen is avoiding that question by saying that the surveyor has surveyed on what he has shown us. But, Zen is not addressing whether or not there is more than 15% coverage.

Mr. Bollenbach: Mr. Chairman, I will address that. Tectonic does not go out and survey. They review the plans that have been surveyed by a licensed professional. It is Tectonic that reviews the plans that are presented. I just wanted to make that distinction.

Mr. Singer: Is there more than 15% coverage?

Mr. Astorino: Not by the licensed surveyor.

Mr. Bollenbach: It is shown on the map that was presented that it doesn't exceed the 15%.

Mr. Singer: We are going to check that.

Jacob Best: Zen, who was the person that came out to the site and took all of my complaints?

Zen Wojcik: It was my Boss, Ed Butler. He is the Town Engineer.

Jacob Best: Ok. I was there and showed him and proved to him all of the discrepancies.

Mr. Astorino: I am sure Mr. Butler didn't do a survey. Is that correct?

Zen Wojcik: He is not a surveyor.

Jacob Best: How do I put my concerns into proof? Do I need to hire my own surveyor?

Mr. Astorino: If the applicant lets you onto their property to survey their property. I would find that unrealistic.

Zen Wojcik: Mr. Chairman, with all due respect, we have already said we had a surveyor that signed and sealed the plans.

Mr. Astorino: I agree. I think we are beating a dead horse.

Zen Wojcik: We had already said that we would have the Building Department go out and check the dimensions. I don't know what else this Board could do.

Jay Myrow: What it is worth, one of the drawings by Vincenzo that was submitted as part of this application included this comparison. It is in the Planning Board's file. He did the analysis that we are talking about right now. He had the existing cottage at 1,043 s.f.. He did the calculation of 15%. It allowed 1,137 s.f.. I understood this to be the As-built because it was part of, it says; revised As-built. He is showing on the calculations that the building was built to 1,137 s.f..

Mr. Astorino: We also have a signed and sealed survey.

Mr. Kowal: What is the date on that?

Jay Myrow: There is a revised date of February 2007. This has the As-built survey on it.

Zen Wojcik and Jacob Best take a look at the plan. Zen explains to Jacob Best the house location, the line, and the survey that was done by Mr. Schmick.

Jacob Best: The existing line that is shown across here, I have a picture that shows a jog here. On the very first foundation plan, it shows that.

Zen Wojcik: The original cottage did come out closer to Mr. Petro's house. We would have to pull out the revised plan. I think they had it smoothed out on the one side.

Jacob Best goes on to tell the Board about his concern of the jog that is shown on the plan. Mr. Astorino and Zen Wojcik said that they could have the Building Inspector go and check that out and measure the foundation. Mr. Best goes on to talk about the porch that did not go all the way over to the side.

Mr. Astorino: It is not in this plan that is proposed. We would have to go back to the other plan. We are looking at this because it moved 5 feet closer to the lake. We are not looking at the entire project. This had a Stop-Work-Order because they were in violation.

Jacob Best: That was when we have noticed all of these issues.

Mr. Astorino: That is why they have been before this Board the past year.

Mr. McConnell: It is not going to be resolved tonight. It will require someone to go out there.

Jacob Best: I don't know what they are going to compare it to.

Mr. Astorino: They are going to measure what Mr. Wojcik had pointed out.

Mr. McConnell: It is not a question of what they are going to compare it to. We have plans of what it was. He will calculate of what it is.

Jacob Best: There is no bearing that I have a picture that shows these plans are wrong.

Mr. Astorino: Are you telling me that the plans we approved are not correct?

Jacob Best: That is what I am telling you.

Mr. Astorino: Are they not correct because of that jog? Is that the whole point here?

Jacob Best: Yes.

Mr. Astorino: If the approved plans from the previous that don't show that jog, then we are wasting time.

Jacob Best: Not only are they proposing to allow 5 feet closer, it is still a lot worse than the existing. You are going even more than existing because of that jog.

Mr. Astorino: Zen, could you take a look at that approved plan tomorrow?

Zen Wojcik: I will give an answer to the Board as soon as I could get one.

Mr. Astorino: Thank you. Is there anyone else wishing to address the Gangemi #2 application?

Charles Petro: I live on Woodland Terrace. I am located on the south side of Mr. Gangemi. Obviously, there is an issue here. The way I look at it is real simple. He submitted plans not with a jog in it. He added additional feet to his original footprint of his original plan. Is that correct?

Mr. Astorino: I don't agree with it.

Charles Petro: His blueprint shows a straight line. Obviously, there is additional square footage.

Mr. Astorino: I don't recall if we told him at the prior approval that he had to build it to exactly the way it was.

Zen Wojcik: That is why I want to take a look at it.

Mr. Astorino: Exactly. So, I don't know where you two gentlemen are coming from.

Charles Petro: I am coming from this way. 5 feet is a lot when you are dealing with lakefront property.

Mr. Astorino: Exactly.

Charles Petro: 5 feet from here, if I am straight down the line, I get a beautiful view. You put something 5 feet ahead of me, I can't see that. I just lost $100K. I lost $100K because he made a mistake on a survey and the engineer and surveyor made a mistake again that they accidently put the house 5 feet ahead. That is a huge mistake. He was told to recheck his numbers. Mr. Batz asked the Planning Board to instruct him to recheck his numbers. He rechecks the numbers and builds it 5 feet ahead of me. He is now going to build a covered porch on top of that. It was originally submitted as rebuilding an existing cottage. All of a sudden, it is a 12-story cottage. The next minute it is a 2800 square foot one-bedroom seasonal house. This is what I am dealing with.

Mr. McConnell: Where did you get 2800 square feet?

Charles Petro: If you would go from floor to ceiling. It is 2200 square feet.

Mr. Astorino: This was all done in the prior approval.

Charles Petro: Whatever the case might be, right now his building is 5 feet ahead of me which is a zoning issue. It shouldn't be in front of the Planning Board because if you are 5 feet ahead forward, you shouldn't be there.

Mr. Astorino: That is why they are before us. They made a mistake. They got caught.

Charles Petro: If they are going to be 5 feet ahead of me, then I can't see the lake that I bought property on. My concern is don't put the covered porch in and don't put the deck on. Then, I might be able to see the north view as when I bought my house before he put his house 5 feet ahead of me. He should put a small 4-foot deck off the sliding glass doors from the second floor and leave it at that. He should knock the pillars down and grade the property as far as drainage is concerned. Then, I will call it a day. Legitimately, he should be going in front of the ZBA.

Mr. Astorino: I don't agree with that. He is in front of the Planning Board for a violation. He is here to rectify the violation.

Charles Petro: Ok.

Mr. Bollenbach: I just want to clarify to the Planning Board in the Zoning Regulations §164-41(c)(4)(i) regarding exceptions to the bulk regulation requirements. It states; "Abutting a lake. No side or rear yard is required where such abuts a lake. In the event that a yard abutting a lake is provided, it shall be at least 5 feet." Maybe, we could confirm that those requirements are set forth.

Zen Wojcik: I think the survey showed that the house is about 40 feet away from the lake.

Mr. Astorino: That special exception should be noted on the plan.

Mr. Astorino: Is there anyone else wishing to address the Gangemi #2 application?

John Bowman: I live on Jersey Ave. I understand that anything within 100 feet of the lake any construction has to come before this Board. The neighbors are supposed to get notice of that.

Mr. Astorino: Yes. You get noticed if you are within a certain distance.

John Bowman: This is the first notice. This was the first time I was notified of a meeting.

Mr. Astorino: And, you are here.

Connie Sardo: This is the first public hearing for the Gangemi #2 application.

Mr. Bollenbach: You are here now, what are your concerns?

John Bowman: Another requirement in the special protection zone is that the septic plan would get reviewed by the Greenwood Lake Bi-State Commission. Has that been done?

Mr. Astorino: Yes.

Zen Wojcik: Yes.

Mr. Astorino: Again, we are going back to the prior application. We are happy to answer your questions, but if you want to know something from the prior approval, stop at the Planning office and take a look at the prior file.

John Bowman: What I want assurance on is that the septic system that you will approve that is in the house now…

Mr. Astorino: It was approved.

Jay Myrow: The OCHD was involved in that.

Zen Wojcik: It was sent to the OCHD because of the activities that occurred during construction. The County Health, before we got into the meetings in this Board for this application, had sent a letter in stating that they would allow construction be completed on the building. Then, they would come in and do an inspection on the work that was done. Ultimately, the septic system could be constructed under their guidance and supervision. It would be built according to the way it is supposed to be done.

Mr. Astorino: That is above and beyond.

Zen Wojcik: Yes. It is an Aerobic system that the Greenwood Lake Commissioner always recommends.

Jay Myrow: It is at our risk.

Zen Wojcik: This Town has gone above and beyond on this property as far as the septic system goes.

John Bowman: What you are saying is that before someone is allowed to move in there needs to be an approved septic system.

Mr. Astorino: It is an Aerobic septic system.

Zen Wojcik: The answer to that is that nobody is moving in. This is supposed to be a guesthouse that is only seasonal.

Mr. Astorino: Is there anyone else wishing to address the Gangemi #2 application. Let the record show no further public comment. What is the Board's feeling on this?

Mr. McConnell: Judging by the passion that Mr. Best had expressed thinking that he was correct that this building exceeds the 15% expansion that this Board had granted approval on, I think we should double check if it does or does not.

Mr. Showalter: Have Zen take out the tape measure and check it.

Mr. Astorino: I understand his passion on it, but this Board has been going on the signed and sealed plans since I have been here.

Mr. McConnell: I agree.

Karen Emmerich: The surveyor went out a couple months ago..

Mr. Singer: I would like to see us re-measure it before we give an approval.

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Astorino: We will adjourn the public hearing.

Mr. Bollenbach: Should we close the public hearing?

Mr. Singer: I think we should keep the public hearing open.

Mr. McConnell makes a motion to adjourn the Fred Gangemi # 2 public hearing to the April 16, 2008 Planning Board meeting.

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

Jay Myrow: Thank you.

PUBLIC HEARING OF Oscar Blandi #2

Application for *"Amended"* Site Plan Approval for the construction and use of a replacement of a Boathouse Roof with a Deck and Walkway to the new deck located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 74 B 5 L 31; project located on the eastern side of Jersey Avenue (236 Jersey Ave.), in the SM zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Tom Hitchins, Architect.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Oscar Blandi #2 application.

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
   A. Visual EAF Addendum.
2. Applicant to discuss project.
3. Applicant has provided an Amended Site Plan.
   A. Label Revision 3 as "Boat House Roof Deck, Access Bridge, Stone Retaining Wall".
   B. Revise the "Approved" note: "Site Plan for addition to existing house within the Designated Protection Area of Greenwood Lake approved 11/3/04."
   C. On the call-out for "Area of squareing off …", note that this refers to the previous approval.
4. Provide a sight line analysis per the Town Planner's specifications.
5. In lieu of the erosion control measures for the proposed land disturbance shown on the plan, place the following note and remove reference to and detail for silt fence. "Soil disturbance for the work shown on these plans is limited to auger excavation for pier foundations and foundation excavation for a stone retaining wall. The excavated material shall be removed as soon as possible and either placed and seeded elsewhere on the property or removed from the site. Under no circumstances shall the material be stockpiled on this site without being covered by a tarp or erosion control material."
6. Pay final review fees.

The following comment submitted by the Conservation Board, dated 4/2/08:

<u>Oscar Blandi #2</u> – The CB has no further comments.

The following comment submitted by the ARB, dated 4/2/08:

<u>Oscar Blandi #2</u> – None Submitted.

Comment #1: Board to discuss SEQR.
A. Visual EAF Addendum.

Mr. Fink: The Planning Board has received a short EAF. In reviewing the SEQR regulations this is a accessory modification to an existing accessory structure. It is not a modification to a residential structure. It is a Type 2 Action under SEQR. I have a resolution to that effect in your packets. The applicant has provided us with a Visual Analysis. I don't see any problems with that.

Comment #2: Applicant to discuss project.

Tom Hitchins: It is the same as the last time. It is the replacement of a boathouse roof with a deck and walkway. We are taking the hip roof and turning it into a flat roof with a railing on it. The railing will match the railing on the house. It is a simple railing. Then, we will have a bridge going from the house from the flat roof to the patio. It would be a simple little bridge with (4) posts going into the ground.

Comment #3: Applicant has provided an Amended Site Plan.

A. Label Revision 3 as "Boat House Roof Deck, Access Bridge, Stone Retaining Wall".

   Tom Hitchins: Yes.

B. Revise the "Approved" note: "Site Plan for addition to existing house within the Designated Protection Area of Greenwood Lake approved 11/3/04."

   Tom Hitchins: Yes.

C. On the call-out for "Area of squareing off …", note that this refers to the previous approval.

   Tom Hitchins: Yes.

Comment #4: Provide a sight line analysis per the Town Planner's specifications.

Mr. Fink: That would normally be required if there was going to be a SEQR review process on this. Since there is not, this comment could be stricken. Elevations have been provided.

Mr. Bollenbach: Comment #4 could be stricken.

Comment #5: In lieu of the erosion control measures for the proposed land disturbance shown on the plan, place the following note and remove reference to and detail for silt fence. "Soil disturbance for the work shown on these plans is limited to auger excavation for pier foundations and foundation excavation for a stone retaining wall. The excavated material shall be removed as soon as possible and either placed and seeded elsewhere on the property or removed from the site. Under no circumstances shall the material be stockpiled on this site without being covered by a tarp or erosion control material."

Tom Hitchins: The note is in there.

Comment #6: Pay final review fees.

Tom Hitchins: Yes.

Mr. Astorino: Do any Board members have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Oscar Blandi #2 application, please rise and state your name for the record.

Nada Vujic: I live on the north side. I am the next-door neighbor. We own (2) boathouses. The distance between both boathouses is about 54". On the north side of Mr. Blandi's boathouse is right on the property line. My only concern is that I understand he wants to make a flat roof. I wanted to know what kind of railing will be placed there and the height of the railing.

Tom Hitchins: Identical to the railing that is currently on the back porch.

Nada Vujic: Ok. My other concern is the walkway. How far will the walkway be from my property line?

Mr. Hitchins shows the plan to Ms. Vujic and explains to her that the walkway will come off by the patio area and it would go straight across.

Nada Vujic: I strongly object to that. I don't want this walkway to be right next to me. That will disable me from doing anything. Why doesn't he have the walkway right in the middle from his house?

Mr. Astorino: What would it disable you from? Who's property? Is it his property or your property?

Nada Vujic: Yes. The way I could see it is that this is his house and this is my boathouse. Why does he want to put the walkway right around the property line? Why can't he put it in the middle or somewhere else?

Mr. Astorino: That would be up to the applicant. If he meets the requirements of the Zoning Code, he could use his property as long it doesn't go to your property.

Nada Vujic: Could he go almost along the property line?

Mr. Astorino: Zen, what are the requirements for that walkway?

Zen Wojcik: That was what Mr. Bollenbach mentioned before on the previous application that there is no side yard required.

Mr. Bollenbach: If it is required, it would have to be a minimum 5 feet. That would be up to the Planning Board's discretion.

Nada Vujic: It has to be at least 5 feet away from my property line.

Mr. Astorino: John, are we required to do 5 feet?

Mr. Bollenbach: I read that regulation before on the previous application. I will read it again. §164-41C(4)(i) "Abutting a lake. No side or rear yard is required where such abuts a lake. In the event that a yard abutting a lake is provided, it shall be at least five feet."

Mr. Astorino: So, where it abuts the lake, it needs to be at least five feet.

Mr. Bollenbach: That would up to the Board to determine. If this is going out over the water, that could be a side yard. It is for the Board's interpretation.

Mr. Astorino: What is the Board's feeling?

Zen Wojcik: On the architectural plan, it shows the dimension of 10.5 inches from the edge of the bridge to the edge of…

Nada Vujic: It is to the edge of my property.

Zen Wojcik: No. Your property is a little further away from that because there is a bump out there.

Mr. Astorino: How far is it from Ms. Vujic's property?

Nada Vujic: When he goes out his door, he has to go this way in order to get to it.

Mr. Astorino: It is his prerogative to design it the way he wishes on his property as long he meets the requirements.

Nada Vujic: It still has to be away from my property.

Mr. Astorino: If it is near the lake, it would have to be 5 feet. Is that correct?

Mr. Bollenbach: But, if it is abutting the lake, I don't believe so.

Mr. Astorino: Is that abutting the lake?

Mr. Bollenbach: Is the walkway abutting the lake?

Zen Wojcik: The boathouse is on the lake. The walkway is on the land. It is not on the lake.

Nada Vujic: I will tell you why I am concerned. When my neighbor started building the house, he planned without asking me that everything that went from the house to the lake goes around my wall. His drainage pipes are on my side. His pump that pulls the water from the lake is on my side. His electrical lines are along my side. If I wanted to do anything, I would have to think about not disturbing those items. Now he is putting his walkway next to me.

Mr. McConnell: How could that affect what you want to do on your property? Are you saying he is on your property?

Nada Vujic: Yes. He is on my property.

Mr. McConnell: That is a different kettle of fish.

Nada Vujic: His electrical lines go through my property.

Mr. Astorino: Are you saying that Blandi's electric lines go through your property?

Tom Hitchins: There is a shared driveway going down. The poles go down along side of it.

Mr. Astorino: He is showing the walkway on the plan about 2 to 2.5 feet from the property line. That is what is shown on the plans. I don't see that as unreasonable. If the Board wishes to go another couple more feet to make it 5 feet, that would be up to the Board.

Nada Vujic: I don't see the logic of having this walkway here.

Mr. Astorino: I think you are missing the point. There are certain zoning provisions and codes that we follow. We don't sit here and make law. If he is in those zoning parameters and he is doing it properly, I don't see a problem of why he wants to do it that way.

Nada Vujic: Are you saying he has the right to do it?

Mr. Astorino: Yes.

Nada Vujic: He could dig on my property for the walkway.

Mr. Astorino: He is not digging on your property. He can't dig on your property.

Nada Vujic: Yes. He is only 1 or 2 feet away.

Mr. Astorino: He is 2 feet from your property. He cannot go on your property.

Zen Wojcik: Ms. Vujic, the plan that we have here shows a stonewall along the property line.

Nada Vujic: The wall is a little bit on my property and his property.

Zen Wojcik: Are you trying to tell the Board that he built something on your side of the stonewall?

Nada Vujic: On my side of the stonewall, he has his electric line going through the ground for the drainage pipe. Now, he wants to go 1 or 2 feet with his walkway when he has a whole yard to put a walkway.

Tom Hitchins: He may be referring here to low voltage electric. He does have some ground lighting. If there are any electrical lines or ground level electrical lines or drainage stuff that is located on her property, he would be not only willing to do it, he would be obliged by law to remove it. If he has put anything on your property, let him know about. He is obliged by law to remove that.

Nada Vujic: He knows that. He argued with me. I did not want to fight with him.

Mr. Astorino: If you know there is a violation and it is affecting your property, you will need to file a complaint with the Town of Warwick Building Department. The Building Department will go and inspect it. If there is an issue as you have pointed out, they will go through the process and cite him to remove it.

Mr. Singer: Ben, what she is saying is that she is willing to let him leave it on her property if he would move his walkway a little bit. A compromise is what is needed here. Is the applicant willing to do that?

Nada Vujic: I agreed with it because he had already set everything that way without asking me. I would then have to say no and fight with my neighbor and see a sour face every time I am there or just say ok, let it stay there. I agreed with that. Why does he want to push that onto me again? That is all I want to say. It would be no hardship for him to put this walkway further away from my property.

Mr. Bollenbach: What is the applicant willing to offer? Are you willing to make an offer?

Tom Hitchins: I cannot speak for the applicant on this. The trouble is if we move this, we are back in the process again. There would be more reviews by Zen and more changes. Mr. Blandi would be out thousands of dollars in review fees. As his architect, I would have told him not to put things on a neighbor's property.

Mr. Astorino: Carl, I understand your point, if she tries to pursue. What happened between the neighbors over there, I don't know. If there is an issue with stuff on your property, make a complaint to the Building Department. They will check it out. If you want to do that or not, that would be solely up to you. Getting back to the application that is before us, I don't see anything in the code that prohibits the applicant from placing the walkway where it is. Does anybody else here see anything different? We don't make law here. We follow the code that is written. In the code that is written, it states that he could be right on the property line with that walkway.

Nada Vujic: The plan also shows that he has steps. All he has to do with those steps is have them go to the terrace right at the middle of his property.

Mr. Astorino: I wish I could say something different, but I can't. It is allowed in the code.

Nada Vujic: If he insists on doing that, then I will have to take a different avenue.

Mr. Astorino: You have the right to do that.

Mr. Bollenbach: Did you say that there was piping on your side of the stonewall?

Nada Vujic: He has a well under his basement. The well is all the way on the other side. He didn't want to have the pump pumping water to the lake on this side. He did this without consulting me. He has the pipe coming from this side of the house all the way to my side of the house.

Mr. Bollenbach: So, Mr. Blandi has a sump pump that is discharging water onto your property or along your property. Is that correct?

Nada Vujic: Yes. It is on the wall along my property.

Mr. Bollenbach: Does it then go to the lake?

Nada Vujic: Yes.

Mr. Bollenbach: That might be something the Board might want to take a look at. Drainage is an issue.

Tom Hitchins: There may be other violations on the site. These violations are not what I am presenting to you. My client is not here tonight. I cannot ask him. I was sent here professionally to try to get this thing through. I would recommend that my client have a discussion with his neighbor. There may be benefits to seeing her viewpoints here.

Mr. Astorino: So, you would like to talk to your client.

Tom Hitchins: I would like to talk to my client. I was urged by my client to get this application through.

Mr. Astorino: I understand that. But, if you are saying that you want to speak to your client about some kind of compromise with his neighbor, where does that leave us?

Mr. Bollenbach: We will need to adjourn the public hearing.

Mr. Singer makes a motion on the Oscar Blandi #2 application to adjourn the Public Hearing to the May 7, 2008 Planning Board meeting.

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

Mr. Astorino: Ms. Vujic, the next public hearing on this application will be on May 7, 2008. Tom, you will need to speak to your client.

Nada Vujic: Ok.

Tom Hitchins: Thank you.

Review of Submitted Maps:

Alisha Fuller

Application for Site Plan Approval for the construction and use of an addition to an existing dwelling utilizing existing well and septic located within "A Designated Protection Area: of Glenmere Lake, situated on tax parcel S 21 B 1 L 5; project located on the northern side of Noble Place (9 Noble Place) in Glenmere Homesites, in the RU zone, of the Town of Warwick.

Representing the applicant: Frey Fuller and Alisha Fuller, applicants.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. A septic dye test, witnessed by the Town Engineer, shall be performed at the property.
4. State the number of existing and proposed bedrooms.
5. Full text of ZBA variance shall be placed on the Site Plan.
6. Include a graphic scale on the Site Plan.
7. Clarify if Lot Coverage listed under "Provided" in the Bulk Table is for the existing condition (before construction) or the proposed condition.
8. Show the limit of the Designated Protection Area of Glenmere Lake.
9. Provide erosion control measures on plans consistent with the current "NYS Standards and Specifications for Erosion & Sediment Control" and include details and notes.
10. Provide sight distance triangles at driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Dimension sight triangles. Indicate that actual sight distance equals or exceeds minimum sight distance. Include a note that the area of the triangles shall be kept free from visual obstructions.
11. Applicant to discuss private road maintenance.

The following comment submitted by the Conservation Board, dated 4/2/08:

Alisha Fuller - The CB has concerns about the proximity of the septic system to the lake. At a minimum an Eljen aerobic system should be required. A consultation with Orange County Water Authority might make sense.

The following comment submitted by the ARB, dated 4/2/08:

Alisha Fuller - The ARB would like to see more details. We are curious if the proposed addition can be integrated with the existing building in a more seamless and cohesive fashion. The ARB would be willing to consult with the applicant and her architect.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has submitted a short EAF. It is an Unlisted Action. The Planning Board could go ahead and declare Lead Agency.

Mr. Kowal makes a motion for Lead Agency.

Seconded by Mr. McConnell. The following Resolution was carried 5-Ayes.

617.6

State Environmental Quality Review (SEQR)

Resolution Establishing Lead Agency

Unlisted Action Undergoing Uncoordinated Review

Name of Action: Alisa Fuller Residence Addition

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application by Alisha Fuller for a ± 0.257 acre parcel of land located at 9 Noble Place, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 1/26/08 was submitted at the time of application, and

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

Whereas, the Planning Board has determined that the proposed project is not within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) do not apply , and

Whereas, after examining the EAF, the Planning Board has determined that there are no other involved and/or federal agencies on this matter.

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

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

Comment #2: Applicant to discuss project.

Frey Fuller: Presently, we have a 2-story house. The footprint is 962 square feet. The upstairs is 160 square feet. We propose to add a basement. The present basement is 156 square feet. A basement of 772 square feet, a first floor of 772 square feet, we want to add 160 square feet to the 2nd floor.

Comment #3: A septic dye test, witnessed by the Town Engineer, shall be performed at the property.

Frey Fuller: Will do.

Comment #4: State the number of existing and proposed bedrooms.

Frey Fuller: It is a 3-bedroom house. My daughter is a nurse-practitioner. She uses one-bedroom as an office. It has always been that way. We will be adding one more bedroom.

Zen Wojcik: You are adding one more bedroom. Is that correct?

Frey Fuller: Yes. It is 3-bedrooms and one is an office. It will still be a 3-bedroom house.

Zen Wojcik: You lost me on that.

Mr. Astorino: Do you have 3-bedrooms now?

Frey Fuller: One bedroom is an office.

Mr. Astorino: You are going to leave the office intact and leave the 3-bedrooms.

Frey Fuller: Yes.

Mr. Astorino: You are not building a new bedroom.

Frey Fuller: No. We are building a new bedroom, but one will not be a bedroom.

Alisha Fuller: It was built as a 3-bedroom house. I currently use 2-bedrooms. I have an office. We are adding a 3rd one.

Mr. McConnell: So, it will be a 4-bedroom house, but you don't intend to use all of them as bedrooms.

Alisha Fuller: That is correct.

Mr. Singer: Just say that you are adding an office. That is it.

Alisha Fuller: Ok.

Mr. Astorino: We are still looking at a 3-bedroom dwelling.

Alisha Fuller: It will still be 3-bedrooms.

Mr. Showalter: It will be a 4-bedroom house, but one room would be used as an office. You could say that.

Mr. Astorino: Where I am getting at is regarding the septic.

Mr. Showalter: John, does it matter?

Mr. Bollenbach: Yes. If you are adding an additional bedroom, then it is the matter of the septic.

Zen Wojcik: It is a 3-bedroom house.

Comment #5: Full text of ZBA variance shall be placed on the Site Plan.

Frey Fuller: My engineer will do that.

Comment #6: Include a graphic scale on the Site Plan.

Frey Fuller: My engineer will do that.

Comment #7: Clarify if Lot Coverage listed under "Provided" in the Bulk Table is for the existing condition (before construction) or the proposed condition.

Frey Fuller: Ok.

Comment #8: Show the limit of the Designated Protection Area of Glenmere Lake.

Frey Fuller: Ok.

Comment #9: Provide erosion control measures on plans consistent with the current "NYS Standards and Specifications for Erosion & Sediment Control" and include details and notes.

Frey Fuller: Ok.

Comment #10: Provide sight distance triangles at driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Dimension sight triangles. Indicate that actual sight distance equals or exceeds minimum sight distance. Include a note that the area of the triangles shall be kept free from visual obstructions.

Frey Fuller: There is no road. It is a paper road. Glenmere Homesites is all paper roads. There are (3) houses and (1) bungalow that has been vacant for 10 years on this road. She is the only full-time resident. I don't know where we stand.

Alisha Fuller: I maintain the road myself.

Frey Fuller: She maintains it herself. There is no one else that is there.

Zen Wojcik: John, do we need a 280-a variance on this?

Mr. Bollenbach: I will have to take a look at it. It is an approved mapped street. Or, not a map street or unapproved road…

Zen Wojcik: That is the next comment. The next comment talks about the maintenance. This is a dirt road. Is that correct?

Alisha Fuller: Yes.

Comment #11:Applicant to discuss private road maintenance.

Mr. Astorino: You had said that you do it all.

Alisha Fuller: I do it all.

Mr. Astorino: There is no one else on that road except you.

Frey Fuller: There is nobody on that road full time.

Mr. Bollenbach: We will need to take a look at it.

Mr. Astorino: I think it is a major issue. Who would you have the road maintenance agreement with?

Mr. Bollenbach: If the applicant is willing to maintain it in its entirety, there are no issues.

Mr. McConnell: Do you have any problems with getting the others to agree to maintain the road?

Frey Fuller: We could ask them. They had volunteers a couple times to give her money for plowing.

Mr. Astorino: You would want to get a road maintenance agreement in place.

Frey Fuller: We are not worried about it.

Mr. Singer: The problem could arise if they fix up those other houses and make them year round houses.

Alisha Fuller: They are year round houses.

Frey Fuller: They are not always there.

Alisha Fuller: One neighbor is from the city and the other neighbor is from New Jersey.

Mr. Bollenbach: It is for the applicant to make the decision. If the applicant offers to maintain it, that would be fine with me.

Mr. Showalter: It sounds like she has it under control.

Mr. Astorino: Yes. What about the sight distance triangles?

Zen Wojcik: Right now, there is not a lot of traffic. I don’t know if that will be the same for next 5 or 10 years from now.

Mr. Astorino: It is a dead end road.

Zen Wojcik: It is up to the Board. If you want to strike comment #10, you could do that.

Mr. Astorino: What does the Board want to do? Is it worth sight distance triangles?

Mr. Singer: Let it go.

Mr. Showalter: I think we could strike comment #10.

Mr. Astorino: We will strike comment #10.

Mr. Bollenbach: We have a comment from the CB, dated 4/2/08 regarding the septic system. I don't see how a consultation with O.C. Water Authority would make sense. It is a 3-bedroom house. It will be dye tested. In the event the dye test fails, then we would go to Plan B.

Mr. Showalter: We have a comment from the ARB, dated 4/2/08.

Mr. Astorino: Do you have an architectural drawing?

Alisha Fuller: Yes. We have that from Roger Lupino.

Mr. Astorino: We have the architectural drawing.

Mr. Showalter: Yes.

Connie Sardo: The ARB also has it.

Mr. Bollenbach: Does the applicant wish to be set for a public hearing?

Alisha Fuller: Yes.

Mr. McConnell makes a motion to set the Alisha Fuller application for a Public Hearing at the next available agenda.

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

Mr. Bollenbach: Have your engineer get in touch with Zen. Try to get things orchestrated. You will need to do the septic dye test. You will need to get that squared away. Once we have all of that information from you, we will review it. Give it to Connie. There will be mailings to the neighbors that will have to be done. The next available agenda means once we get everything in, we will look at it at a work session. If we have space on a meeting agenda, then you will be on for a public hearing.

Alisha Fuller: Ok. Thank you.

Lands of Howard Shapiro

Application for Sketch Plat Review of a proposed 7-Lot (Major) subdivision, situated on tax parcel S 42 B 4 L 50; parcel located on the northern side of Orange County Route 1A 500 feet north of West Street Extension, in the SL zone, of the Town of Warwick.

Representing the applicant: Dave Higgins from Lanc & Tully Engineering. Mr. Lipman, Attorney.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
   A. Full EAF was provided.
2. Applicant to discuss project.
3. Revise/correct the application:
   a. The name and address of the Owner, Warwick Housing LLC, needs to be revised. Since the owner is a corporation, they must attach "a list of all directors, officers and stockholders … owning more than 5% of any class of stock" to the application, as directed on the top of page 2 of the application.
   b. Provide the proper mailing address of the applicant, Howard Shapiro (two addresses are provided). The applicant must also sign (and notarize) the deposition on the top of page 2.
   c. The Tax Map designations listed on the Application Form are incorrect. They don't exist anymore. The correct designation, according to current tax maps, is SBL 42-4-50. The liber and page are also incorrect.
4. The Bulk Table must include the use classification as well as the use group requirements.
5. The proposed subdivision is being created from the 50th lot of the Westview subdivision. Per §137-7B(3)(b), if more than 49 lots are created "either simultaneously or sequentially from a parent parcel", central sewer and water services must be provided to all lots. Applicant to discuss.

The following comment submitted by the Conservation Board, dated 4/2/08:

Lands of Howard Shapiro - The CB is confused regarding the further development of Pelton Crossing since it originally appeared that the land now being developed was set aside for open space. In any event, it would seem that central water and sewer is now required before further subdivision.

The following comment submitted by the ARB, dated 4/2/08:

Lands of Howard Shapiro - The ARB would like to see elevations and designs for these houses. They will be extremely visible and create a significant impact on the community.. The ARB also objects to the proposal for a building lot in the open space. A row of trees and mitigation plantings should be added to soften and screen the additional lots, both from the road and from the other homes in the subdivision. Given that the Planning Board believes that these additional lots will mandate a community waste water treatment system, what type will be required? How will it be built and integrated to keep it from becoming an intrusion on the entire area?

Comment #1: Board to discuss SEQR.
A)Full EAF was provided.

Mr. Fink: The applicant has provided us with a full EAF. There might be other involved agencies. Due to some of the review comments tonight, there might be corrections needed to the EAF prior to the Board declaring itself Lead Agency or its intent to be Lead Agency.

Mr. Astorino: Ok. We will wait on that.

Comment #2: Applicant to discuss project.

Dave Higgins: The project before the Planning Board is for a proposed 7-lot subdivision. It is the re-subdivision of lot 50 of the West View Estates subdivision that was previously approved by the Planning Board and filed. All of the roads have been built out. Some of the lots have been built on and sold in the West View Estates subdivision. Largely, the remainder of that subdivision has not been built at this time. We are proposing a 7-lot subdivision of that parcel of property. They are all using existing street frontage, proposed wells and sewage disposal system.

Comment #3: Revise/correct the application:

a. The name and address of the Owner, Warwick Housing LLC, needs to be revised. Since the owner is a corporation, they must attach "a list of all directors, officers and stockholders … owning more than 5% of any class of stock" to the application, as directed on the top of page 2 of the application.

   Dave Higgins: We will take a look at that. We will make whatever revisions that are needed.

b. Provide the proper mailing address of the applicant, Howard Shapiro (two addresses are provided). The applicant must also sign (and notarize) the deposition on the top of page 2.

   Dave Higgins: Ok. The applicant will take care of that.

c. The Tax Map designations listed on the Application Form are incorrect. They don't exist anymore. The correct designation, according to current tax maps, is SBL 42-4-50. The liber and page are also incorrect.

   Dave Higgins: Ok.

Comment #4: The Bulk Table must include the use classification as well as the use group requirements.

Dave Higgins: We could do that.

Comment #5: The proposed subdivision is being created from the 50th lot of the Westview subdivision. Per §137-7B(3)(b), if more than 49 lots are created "either simultaneously or sequentially from a parent parcel", central sewer and water services must be provided to all lots. Applicant to discuss.

Mr. Lipman: That is true.

Mr. Astorino: Are you going to throw a sewer plant up there?

Mr. Lipman: No. Because the section goes on to describe the circumstances that we could seek a waiver.

Mr. Astorino: You are going to try for a waiver.

Mr. Lipman: Absolutely.

Mr. Fink: Ben, there was one other additional issue which was the SEQR Findings Statement that was adopted for the West View Estates subdivision. There were (2) provisions in there that states; "any additional development of the parcel beyond the proposed 49 building lots, will require the development of the community sewage disposal system". There is also another provision in the Findings Statement that reads the same way except that it reads; "the development of a community water supply system". From that standpoint in a situation like this, where we have a Findings Statement that has been established that had a finding a condition of, I think we will have to do research on this to see exactly what this means since the project has been fully approved and is under construction. I don't have an answer for you tonight. I will search that and find you an answer.

Mr. Lipman: I think you will find that the notes that appear on the map clearly take into account the possibility of this waiver. Regarding the declaration, I don't recall what you are pointing out in the Findings Statement except with what you said. But, that is erroneous in retrospect. I didn't realize that it was as limited as that indicates. The ordinance is not so limited. The State's statues are not so limited. I do understand there may be the possibility of an environmental affect or impact.

Mr. Astorino: Ted, you will do some investigation.

Mr. Fink: I will.

Mr. Astorino: As far as SEQR, do you want to wait until we get more information?

Mr. Fink: That was the primary issue whether or not if there would be a need to amend the EAF prior to doing Lead Agency. I would like to get some clarification on this.

Mr. Lipman: If you may recall on that EIS, your findings statement on the impact was in relation to a project that was limited to the 49 units. This parcel is outside of that development area. I know that somewhere in the record it is rather clear that was the limit for that development area. Then, there was this parcel that was not part of that development area. Truly, it was part of the parent parcel subject to this section.

Mr. Fink: The way it is referenced in the Findings Statement is that any development of ±188.76 acre parcel, I am not sure what that all means from a standpoint of the project's site. I know that it had consisted of several parcels.

Dave Higgins: Ted, what was the area?

Mr. Fink: It was 188.76± acres.

Dave Higgins: This parcel is listed here at 119.22 acres. That 188.76 acres was probably the entire parcel.

Mr. Fink: That would include the open space and the remainder parcel.

Mr. Lipman: Correct.

Mr. Fink: Ok.

Mr. Lipman: I think that nobody had picked up on it.

Dave Higgins: We had a note on the subdivision plan that said future development of the unrestricted portion of the remaining lands, which this development is, it would require connection of central water and sewer facilities for all lots, if required by law at that time. What we are asking is if the law is requiring that at this point and time.

Mr. Astorino: Ted, you will need to do some investigation.

Mr. Fink: I will.

Mr. Bollenbach: There is another issue here. Mr. Lipman, there were (2) Orders to Remedy. Apparently, when lot 4 was built, a C of O was granted. It appears that the driveway and the parking area was built in the open space of Mr. Shapiro. Mr. Shapiro and Pelton Crossing are receiving violations.

Mr. Lipman: Why is Pelton Crossing receiving a violation?

Mr. Bollenbach: They were the ones that constructed it. I believe that was a representation that was made by Pelton Crossing for a lot line change at that time.

Mr. Lipman: What do you mean by a representation?

Mr. Bollenbach: We have information in the file. There was a proposal by Pelton Crossing to make an application for a lot line change to swap open space.

Mr. Lipman: Right. I am aware of the issue. Pelton Crossing doesn't own that parcel anymore. It was sold.

Mr. Bollenbach: But, Howard Shapiro owns it.

Mr. Lipman: Howard Shapiro owns the open space.

Mr. Bollenbach: He owns it with the driveway.

Mr. Lipman: The driveway doesn't encroach. Only the turnaround encroaches. He is suffering an encroachment.

Mr. Bollenbach: Perhaps that could be addressed.

Mr. Lipman: Maybe, you could tell me if this notice of violation is preventing the issuance of building permits at Pelton Crossing.

Mr. Bollenbach: I don't know how it works.

Mr. Lipman: If it is, we are going to have a little problem that might mushroom into a bigger problem.

Mr. Bollenbach: There were representations that the lot line change would have been taken care of. It has not been taken care of.

Mr. Lipman: What representations?

Mr. Bollenbach: Alan, I will give you copies of the file tomorrow.

Mr. Lipman: Is it that my client had made representation?

Mr. Bollenbach: Yes.

Mr. Lipman: I would like to see that. That has nothing to do with another lot with respect to which there is no encroachment encumbrance…

Mr. Astorino: Aren't we looking at this as a whole parcel?

Mr. Lipman: No.

Dave Higgins: We are looking at 119 acres.

Mr. Astorino: We will address it in the positive declaration. We will research it.

Mr. Lipman: If you would like to play payback, go right ahead. I am not going to play.

Mr. Astorino: Mr. Lipman, it is not payback. You have a project here that our Planner will review and get to the bottom of it. There are some issues here.

Mr. Lipman: I think we should put the issues right on the table. There is a section of the code in the Subdivision Regulations that says; if you create 50 or more lots or more than 49 lots, it goes on to say except if a waiver is issued. This is not a game. The provisions are there. The State Regulations provide for this waiver. The statute provide for the waiver to be issued by the Commissioner of Health.

Mr. Astorino: So, the Findings Statement is meaningless.

Mr. Lipman: No. I think the Findings Statement is incorrect. It is inconsistent with the terms of the approval of the subdivision, not the Findings Statement. I did not realize that the language in the Findings Statement was inconsistent with what was on the map.

Mr. Astorino: You are comfortable with getting a waiver from whom; the State or the County?

Mr. Lipman: The County acts for the State.

Mr. Astorino: Was there any correspondence from the State or the County?

Mr. Lipman: We had talked to the Health Department. It is possible, but no decision has been made and none will be made until an application is filed. There has been no application filed. It is feasible. It has happened. It is no secret that during the course of this approval, I explicitly discussed this issue.

Mr. Astorino: The Board will make its decision based on the facts that we have. I don't believe it is a game. This Board takes every application seriously.

Mr. Lipman: You said; let us do a positive declaration.

Mr. Astorino: Mr. Lipman, we have done positive declarations to other projects in the past. If there are issues that warrant it, then this Board will take that stance. It is up to this Board to make that decision.

Mr. Lipman: Right now, at this moment and time, there are no issues that warrant it.

Mr. Astorino: That will be the Board's decision.

Mr. Lipman: Yes, but you answer to a higher authority.

Mr. Bollenbach: If there are any correspondences with the County, please provide that.

Dave Higgins: I had a discussion with the County. There was nothing in writing. We understand that the Planning Board will need something from that office indicating that a waiver would be granted. Is that what is being understood tonight?

Mr. Astorino: I believe so. We will need some sort of correspondence.

Mr. Singer: What grounds would they grant a waiver?

Dave Higgins: They look at a number of things such as the size of the lots to a large extent for the hardship that would be involved in creating a central water and sewer system for the number of lots that you are proposing. The Health Department is generally not in favor of having small water and sewer systems because they could fall into disrepair and there would be maintenance issues.

Mr. Astorino: What are the size of these lots?

Dave Higgins: They are more than 5 acres.

Mr. Astorino: Ted, you will review this before we take action on SEQR.

Mr. Fink: Yes.

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

Dave Higgins: I have one question. John, you had mentioned that someone had made some indication that they would be filing a lot line change. Was that Mr. Shapiro or Pelton Crossing?

Mr. Bollenbach: I will take a look at the file.

Dave Higgins: Ok.

Mr. Singer: Is there a segmentation issue here?

Mr. Fink: This is a new application that we have for a previously approved subdivision. It constitutes a further subdivision of the 50th lot, the remainder lot. The previous subdivision went through a thorough EIS review process. The 7 lots that are proposed now, are not. They will need to go through an additional SEQR review process. What form that takes, we don't have an answer tonight. We have some basic fact gathering that I would have to do in relation to the Findings Statement.

Dave Higgins: There is something I would like to mention to the Board. I do know of applications that the Health Department has granted that waiver. We had a subdivision in Tuxedo, which was 53 lots. I looked at the map to see how we got 53 lots with wells and septics. There were waivers that were granted in that case.

Mr. Lipman: It is not a unique process.

Mr. McConnell: Is there a reason why these 7 lots were not included when the original subdivision was done?

Dave Higgins: I believe at the time there was some uncertainty on how to move forward with the remaining lands. There was thought about going with multi-family housing, condos, or townhomes. The market has somewhat changed.

Mr. Astorino: That would mean an annexation to the Village. Is that correct?

Mr. Lipman: There was a number of possibilities. There was the possibility of water supply, annexation, the transfer of development rights area. This was a receiving area. It wasn't something for which there was an answer at the time as to how it would or could be developed. As it turned out, a closer look at this particular site, it wouldn't support that kind of development, but it could support a few lots.

Mr. Astorino: We will review these issues.

Mr. Lipman: I want to address this other question regarding the lot line change. It was discovered in the course of selling, I believe it was lot 4 where the model home was built. Part of that parking area or the turnaround area as you exit the garage was off the lot. Initially, the buyer wanted to have it included with the property, which would require a lot line change. That was what was discussed and proposed. We needed to get Howard Shapiro's cooperation. We virtually had that cooperation when the buyer said the hell with it, I will take it the way it is and risk the removal of the pavement that is on the 50-foot corridor that gets to the open area.

Mr. Astorino: That is owned by Howard Shapiro.

Mr. Lipman: All of it.

Mr. Astorino: You mentioned the driveway.

Mr. Bollenbach: It is just the turnaround.

Mr. Lipman: The driveway is within the 50 feet.

Mr. Astorino: Ok.

Mr. Lipman: There would have had to been a movement if we would maintain 50 feet. The parking is there at the discretion of Mr. Shapiro. He has the right to insist that it be removed. I don't see this as a big deal. It is not something that occurred as a result to the design. It was a stupid thing done by the builder to create more space to park more vehicles when that building was used as sales office. It was a 3-car garage with no garage doors. There were windows. It was an office. There was a need for additional parking. It was stupid when they did not survey and knowing that it was not on the lot.

Mr. Astorino: John, will you check on that?

Mr. Bollenbach: It would be up to Mr. Lipman to seek how they would resolve it.

Mr. Lipman: I understand that Pelton Crossing has been told by the Building Department that no public building permits would be issued.

Mr. Bollenbach: I haven't talked to the Building Inspector yet.

Mr. Lipman: I wish you would do that. Those are fighting words.

Mr. Bollenbach: I thought there was ample time to have this encroachment resolved. Apparently, it hasn't been taken care of.

Mr. Lipman: Ample time from when?

Mr. Bollenbach: From the date when the C of O was issued. It is there. It is an encroachment upon the open space. It violates the terms of the declaration. The Town has the enforcement right. They are pursuing it.

Mr. Lipman: You really need to know against who to pursue it.

Mr. McConnell: Has the Planning Board told the Building Department not to issue building permits?

Mr. Astorino: No.

Mr. McConnell: I fail to see how this is relevant for our consideration here tonight. You take this up with Mr. Batz.

Mr. Lipman: That is not always easy to do.

Mr. McConnell: You are taking my time on something that I don't have to be concerned with tonight. I thank you to take it up with the appropriate people at the appropriate time.

Mr. Lipman: I have already done it now.

Mr. Astorino: Does the Board have anything further? We will review this project further to know where we would go with it.

Mr. Lipman: Absolutely. Ben, I had a misunderstanding with what you and I were saying. I apologize for that.

Mr. Astorino: That is ok. Mr. Lipman, there are no hard feelings.

Dave Higgins: Thank you.

Slater-Wolfe Site Plan

Application for Site Plan Approval for the construction and use of an addition and modifications to existing structures and utilities, located within "A Designated Protection Area: of Greenwood Lake, situated on tax parcel S 77 B 1 L 34.12; project located on the western side of Shore Avenue, in the SM zone, of the Town of Warwick. Previously discussed at the 10/3/07 Planning Board meeting.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Mr. Lipman, Attorney.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. The limits of Shore Avenue right-of-way are shown on the Site Plan and on the Existing Conditions Survey. Applicant proposes construction of a new septic tank and septic pump tank within this right-of-way. Also, a portion of the renovated and expanded portion of the primary dwelling will continue to be in the ROW as well as the existing well. Applicant's submitted deed shows that the applicant may have a right to a portion of the ROW, but not all. A copy of the private road use and maintenance agreement has been submitted. Planning Board Attorney to comment.
4. The proposed septic tank and pump tank are to be constructed 5 feet from the renovated and expanded dwelling where 10 feet is required. The calculation for the sewage disposal system concludes that 108 LF of Eljen In-drains are required. The Site Plan shows only 60 LF to be constructed. Applicant has been directed to Orange County Health Department for approval of proposed septic system. Update status of application.
5. The proposed railing between the driveway and absorption field should be extended to the property line. Show a construction detail.
6. Provide stabilized construction access downgrade of the proposed garage.
7. The proposed Aerobic Treatment Unit shown on the Site Plan may require excavation for construction. On the Aerobic Treatment Unit Details sheet, show a "Limit of Excavation" on the Typical Section, extending 8 inches beyond the limits of material construction shown on the Section. Include the following note: "Excavation beyond the limits shown herein shall only be for removal of unsuitable material as approved by the Town Engineer or Building Department." Provide bedding for the unit per the manufacturer's recommendations. If the material removed from this excavation is to be used elsewhere on the site, show a location for a stockpile and provide a detail with suitable erosion control measures.
8. General Note 7 states that the proposed renovated building will have 4 bedrooms. The aerobic system details and design notes are for a system suitable for a 3 bedroom dwelling. The "Advantex Parameters" notes are for a different application. Revise.
9. Revise referenced survey revision date in General Note 5.
10. Applicant proposes to increase the non-conformity of the parcel by increasing the lot coverage. Applicant and Board to discuss referral to ZBA.
11. The parcel has two existing cesspools. Both areas are proposed to be occupied by septic tanks and force mains, implying removal of whatever existing facilities are there. The Demolition & Removals Plan does not specify how these facilities will be removed. Note the method of removal and disposal of existing facilities. Place a note on the plan

that the engineer must certify to the Building Department that the existing facilities were removed in accordance with the plans and that any new facilities constructed in these areas have been inspected prior to backfilling.

12. Board to consider a waiver from performing septic dye tests since the existing sewage disposal systems will be removed as part of this project.

The following comment submitted by the Conservation Board, dated 4/2/08:

Slater-Wolfe Site Plan - The CB is concerned about the visual impact from the Lake and to adjacent property owners.

The following comment submitted by the ARB, dated 4/2/08:

Slater-Wolfe Site Plan - The ARB would be willing to consult with the applicant and the architect, should the Planning Board request. The goal would be to see if there might be some modifications to the plans that might help given concerns about the high percentage of coverage on the site.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board had declared itself Lead Agency on this Unlisted Action using the short EAF. There are a few SEQR comments in the review comments tonight.

Comment #2: Applicant to discuss project.

Karen Emmerich: The owners of the property are looking to expand an existing dwelling on the site. They proposed to build a new garage, driveway, and upgrade the septic system.

Comment #3: The limits of Shore Avenue right-of-way are shown on the Site Plan and on the Existing Conditions Survey. Applicant proposes construction of a new septic tank and septic pump tank within this right-of-way. Also, a portion of the renovated and expanded portion of the primary dwelling will continue to be in the ROW as well as the existing well. Applicant's submitted deed shows that the applicant may have a right to a portion of the ROW, but not all. A copy of the private road use and maintenance agreement has been submitted. Planning Board Attorney to comment.

Mr. Bollenbach: From what I see, they have a right of ingress and egress. The deed that I received on March 12th, there were some conditions and comments that run with the land. A part of it states that no outhouse, water closet, or cesspool shall be constructed within 5 feet of any and all boundary lines. It is not even on their property. It has been constructed within 5 feet of it. That was one issue that I had with the deed. We did receive a letter from the president of the HOA indicating that they had no objection to the location of a septic within that ROW. It would not impede the ingress/egress. There was no objection. I feel that we need something a little bit more legally submitted than a letter from the president of the HOA. It would have to be some type of an easement or ROW.

Karen Emmerich: The septic is on his property according to the updated survey.

Mr. Bollenbach: There is a discrepancy in the deed.

Mr. Lipman: What discrepancy? Is it in the description?

Mr. Bollenbach: Yes.

Mr. Lipman: It is a restriction that may expose the applicant to issues with his neighbors. It doesn't have an issue with the Town.

Mr. Bollenbach: I would like to have something more than a letter just saying that it is ok.

Karen Emmerich: But, the HOA has nothing to do with that piece.

Mr. Bollenbach: Why did I get the letter from the HOA?

Karen Emmerich: You received the letter before we had the survey updated.

Mr. Bollenbach: I haven't seen that.

Mr. Lipman: I examined the title.

Mr. Bollenbach: I did not see the title in the file. Could you fax me a copy?

Mr. Astorino: Karen, are you saying that the entire parcel with the road belongs to the applicant?

Mr. Lipman: I brought this to your attention at the workshop meeting. After that meeting, the survey was taken into consideration of that particular provision.

Karen Emmerich: It is on sheet 6 of the plans.

Mr. Astorino: John, you will need to review the title.

Mr. Bollenbach: Yes.

Comment #4: The proposed septic tank and pump tank are to be constructed 5 feet from the renovated and expanded dwelling where 10 feet is required. The calculation for the sewage disposal system concludes that 108 LF of Eljen In-drains are required. The Site Plan shows only 60 LF to be constructed. Applicant has been directed to Orange County Health Department for approval of proposed septic system. Update status of application.

Karen Emmerich: The application is into the OCHD. They will review it. It is a replacement system. We are awaiting their comments.

Comment #5: The proposed railing between the driveway and absorption field should be extended to the property line. Show a construction detail.

Karen Emmerich: We could extend it to the property line. There is a detail on sheet 3.

Comment #6: Provide stabilized construction access downgrade of the proposed garage.

Karen Emmerich: I am not sure why you would need that. It is already paved there.

Zen Wojcik: It is for the disturbance for the construction of the garage. The proposed garage is larger than the existing garage. The existing garage will be demolished. You will have earthwork done. We are asking for a little bit more. You will have vehicles coming in. You don't have a construction stabilizing access on that side of the road. You will be putting in a driveway. You will be putting in a very massive aerobic system. You will need a construction access.

Comment #7: The proposed Aerobic Treatment Unit shown on the Site Plan may require excavation for construction. On the Aerobic Treatment Unit Details sheet, show a "Limit of Excavation" on the Typical Section, extending 8 inches beyond the limits of material construction shown on the Section. Include the following note: "Excavation beyond the limits shown herein shall only be for removal of unsuitable material as approved by the Town Engineer or Building Department." Provide bedding for the unit per the manufacturer's recommendations. If the material removed from this excavation is to be used elsewhere on the site, show a location for a stockpile and provide a detail with suitable erosion control measures.

Karen Emmerich: We will take a look at that.

Comment #8: General Note 7 states that the proposed renovated building will have 4 bedrooms. The aerobic system details and design notes are for a system suitable for a 3 bedroom dwelling. The "Advantex Parameters" notes are for a different application. Revise.

Karen Emmerich: It is designed for 4-bedrooms. There is an error on the sheet with the number of bedrooms from the Advantex manufacturer. The design calculations are based on 4-bedrooms. We just have to change the 3 to 4.

Comment #9: Revise referenced survey revision date in General Note 5.

Karen Emmerich: Ok. Will do.

Comment #10: Applicant proposes to increase the non-conformity of the parcel by increasing the lot coverage. Applicant and Board to discuss referral to ZBA.

Karen Emmerich: We have recalculated the lot coverage based on this new portion of the survey being a factor. The lot coverage will only increase maybe about 1%. It is not a significant change, but it is over the requirement of 30%.

Mr. Astorino: Does the Board want to make a recommendation to the ZBA one way or another?

Mr. McConnell: We should send it without recommendation to the ZBA.

Mr. Astorino: Carl?

Mr. Singer: Send it without recommendation.

Mr. Bollenbach: Ok. I will do a letter to the ZBA.

Mr. Astorino: Ok. We will send it without recommendation to the ZBA.

Mr. Lipman: We might elect to eliminate that 1% to avoid that trip.

Comment #11: The parcel has two existing cesspools. Both areas are proposed to be occupied by septic tanks and force mains, implying removal of whatever existing facilities are there. The Demolition & Removals Plan does not specify how these facilities will be removed. Note the method of removal and disposal of existing facilities. Place a note on the plan that the engineer must certify to the Building Department that the existing facilities were removed in accordance with the plans and that any new facilities constructed in these areas have been inspected prior to backfilling.

Karen Emmerich: Will do.

Comment #12: Board to consider a waiver from performing septic dye tests since the existing sewage disposal systems will be removed as part of this project.

Mr. Astorino: That seems obvious.

Karen Emmerich: Is there any way for the Board to consider, if we do go to the ZBA or not depending what the client decides on, if you could set us for a public hearing? That would save us coming back to another meeting. If we don't meet all the criteria, then you don't put us on for a public hearing.

Mr. Bollenbach: Zen, what is your opinion?

Zen Wojcik: John, hasn't figured out the what the story is with these details yet. We don't know about the septic system if these people are building something on their property or not.

Mr. Bollenbach: If everything is fine, we could put them on for a public hearing. If not, we would bring them on without a public hearing.

Zen Wojcik: It is up to the Board.

Mr. McConnell makes a motion to set the Slater-Wolfe application for a Public Hearing at the next available agenda.

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

Karen Emmerich: Thank you.

Other Considerations:

1) **HOMARC, LLC. –** Planning Board to discuss environmental issues.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. David Griggs from ERS Consultants.

Mr. Fink: We talked about whether or not to prepare a Positive Declaration on this application. I have done that. I don't expect the Board to make any decision on this tonight. I want you to take it home to determine whether or not if this is reflective of our discussion and the potential impact issues that were raised and discussed at the workshop.

Mr. McConnell: Do you want us to discuss this at the next workshop?

Mr. Fink: Yes.

Mr. Astorino: That will be fine. We could discuss it at the next workshop. Ted, does it only take one issue to issue a Positive Declaration?

Mr. Fink: Yes. That is correct.

Mr. Astorino: Ok. Karen or Dave, do you have anything you want to add?

Karen Emmerich: I have a question on #1 under Reasons to Supporting the Determination. It says; the proposed action would require construction activities on more than 80% of the site.

Mr. Fink: Correct.

Karen Emmerich: We show a disturbance area of roughly 50%. I don't know where the 80% came from.

Mr. Fink: It came right from the EAF document. If you look at the before and after on the various vegetative types on the site, soil types, and the amount of coverage by your impervious surfaces as well as the areas that will be converted to lawn, parking, landscaping, and so forth. If you do the direct calculation, it came out to more than 80%.

Karen Emmerich: That may have been under our original design for the project.

Mr. Fink: Karen, I took it right from the EAF.

Mr. Astorino: If there is a comment, then revise the EAF.

Mr. Fink: Yes.

Mr. Astorino: Karen, the Planning Board hasn't seen this document yet. We will take a look at it.

Mr. Fink: I would like to point out that this document should be accurate. If that is not an accurate figure that is reflected from the current plan, then something should be done.

Mr. Singer: Dave, could you tell me about the Fish and Wildlife Services?

David Griggs: We are still in the process. They take a long time to respond back to us. We are assuming that it would be the same kind of response that we had with the Fairgrounds project.

Mr. Singer: It took a long time with the Fairgrounds project.

David Griggs: Yes.

Mr. McConnell: You would think they would be tuned into the issues and respond quickly.

Mr. Astorino: You will probably have the same issues. We will review this Monday night at the 4/7/08 workshop.

2) **Mountain View Estates –** Planning Board to discuss adopting Final Scoping Document and discuss Visual Assessment.

Mr. Fink: This was going for adoption at the last Planning Board meeting, but there were (2) issues that arose. One of which, one of the Planning Board members had raised the issue of potential impact on the water shed and specifically any potential impacts of stormwater runoff, erosion, and so forth into the black dirt farming area. Zen's office prepared a section that I added to this that addressed the watershed issues. That has been incorporated into this document. We also discussed the location for the viewshed analysis. We came up with (6) locations to looking into both sides of the development of the developed area from Old Ridge Road, which was a total of (4) locations. Then, there was (1) location from Jessup Road and another location from Taylor Road.

Mr. McConnell: It wasn't from Taylor Road. It was coming in off Taylor Road.

Mr. Astorino: It was going to be built from that cut out off Taylor Road.

Mr. Bollenbach: I believe that was Fusco's proposed Town Road.

Mr. Fink: So, what you are saying is that Taylor road is not accurate.

Mr. McConnell: It is of the proposed Town road of Fusco.

Mr. Fink: Ok. How would they do that if it is an adjoining parcel? How would they get access to that parcel?

Mr. McConnell: It would be up to the lawyers.

Mr. Astorino: You could put it in as a proposed site. I don't think you could mandate it until it is Town road. By that time, it might be too late.

Mr. McConnell: I don't see why the owner of that parcel would have any objections.

Mr. Astorino: I don't see it either, but you would never know.

Mr. McConnell: We need to get a revised Final Scoping Document.

Mr. Fink: I don't see any reason why you couldn't adopt this subject to the revision as we have just discussed. I took notes. I will make the change.

Mr. Astorino: I don't see why not. Does someone want to make a motion to adopt the Final Scoping Document?

Mr. Singer makes a motion to adopt the Final Scoping Document as revised by Mr. Ted Fink.

Seconded by Mr. Showalter. The following Resolution was carried 5-Ayes.

SEQR Final Scoping Document

FOR THE PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT STATEMENT

Name of Action: **MOUNTAIN VIEW ESTATES**

Location of Action: **TOWN OF WARWICK, ORANGE COUNTY, NEW YORK**

Date Adopted: **April 2, 2008**

Lead Agency: **Town Of Warwick Planning Board**
132 Kings Highway
Warwick, NY 10990
(845) 986-1124

INTRODUCTION

A Draft Environmental Impact Statement (DEIS) will be prepared in accordance with the requirements of 6 NYCRR Part 617.9, to assess the potentially significant adverse impacts of a proposed 51 lot subdivision of a ± 171-acre site. The proposed development site is located on Old Ridge Road in the Town of Warwick, Orange County, New York. This Final Scoping Document will serve as a guide to the contents of the DEIS rather than a strict table of contents. The DEIS must address all of the issues raised in this document but the DEIS may contain studies in addition to those detailed herein.

The proposed Mountain View Estates Subdivision was classified as a Type I Action and was subject to a Positive Declaration, issued by the Town of Warwick Planning Board on July 18, 2007. At that time, the Planning Board directed the applicant to prepare a DEIS. Potentially significant adverse impacts of the project identified by the Planning Board include, but are not limited to, the following:

1. The proposed action would require construction activities on slopes of 15 percent or greater and in areas where bedrock is at or near the surface. This has the potential to cause soil erosion and subsequent sedimentation of protected surface waters.

2. The proposed action includes construction activities adjacent to protected wetlands and streams. The discharge of stormwater runoff from developed areas on the site would be directed to such wetlands and stream.
3. The proposed action would require the use of approximately 27,560 gallons of water per day from 51 individual groundwater wells to supply the potable needs of the future residents of the development. Approximately the same amount of sanitary sewage would be discharged into 51 individual septic disposal systems. These proposals for individual water supply and sewage disposal may not meet the requirements of Chapter 137-25(B) of the Warwick Town Code (the Planning Board authority to require *"public sanitary and/or water system may be required for any subdivision"*) nor the Realty Subdivision requirements found in New York State's Public Health and Environmental Conservation regulations at 10 NYCRR 74 and 6 NYCRR 653.
4. The proposed action will irreversibly convert soils of statewide significance and potentially prime agricultural soils on active farmland within a New York State Agricultural District and is in an area where the Town of Warwick has made significant expenditures of public funds for the purchase of development rights on adjoining farmland and nearby farms.
5. The proposed action has the potential to impact traffic on local and county roads as well as pedestrian movements in the area.
6. The proposed action is located within the Town of Warwick Ridgeline Overlay Zoning District and therefore, has the potential to affect scenic views known to be important to the community.
7. The proposed action would require approximately one (1) mile of new Town roads, potentially affecting Town services.
8. The proposed action has the potential to affect community service providers including fire, police, and schools from the additional Town residents and school children generated by the 51 new single-family dwellings.

PROJECT SCOPING

Public Scoping was conducted through circulation of a Draft Scoping Document, prepared by the applicant, to all involved and interested agencies and members of the public, by posting of the document on the Town's Web Site and availability of the Draft Scoping Document at the Town Hall for viewing or copying. A public scoping session was conducted after publication of a notice of a DEIS Scoping Session appeared in the official Town newspaper. The scoping session took place at a Planning Board meeting on February 6, 2008 and the period for public comment on the Draft Scoping Document ended on February 16, 2008.

DESCRIPTION OF THE PROPOSED ACTION

The applicant, Elljay Development, Inc., is proposing a 51-lot residential cluster subdivision of a ± 171-acre parcel, commonly known as Panoramic Farms. The applicant has proposed that all 51 lots, proposed for 51 new single-family dwellings, be served by individual wells and individual septic disposal systems. Four of the proposed 51 lots would be designated for affordable housing under the Town of Warwick's affordable housing program and are subject to issuance of a Special Use Permit by the Planning Board. Approximately 5,400 feet of new roads are proposed along with two common driveways that would serve 11 dwellings. The site consists predominantly of approximately ± 54 acres of farmland (32% of the site), ± 112 acres of

forested land (66% of the site), and ± 2.5 acres of State Protected Freshwater wetlands (0.15% of the site). Additional areas of Federal Jurisdictional Wetlands may also be located on the parcel. The applicant has proposed that 53.5 percent of the site be conserved as open space under a proposed cluster subdivision plan. The property lies within the Town's Rural, Mountain, Ridgeline Overlay, and Agricultural Protection Overlay Zoning districts.

The project site is located on both sides of Old Ridge Road approximately 1,600 feet south of the intersection with Taylor Road and approximately 500 feet north of the intersection with Ridgeway Loop in the Town of Warwick, Orange County, New York. The site is identified on the Town of Warwick tax maps as parcels Section 18, Block 1, Lot 2.

GENERAL SCOPING CONSIDERATIONS

Unless otherwise directed by this Scoping Document, the specifications for environmental impact statements found in 6 NYCRR 617.9(b) apply to the content of the DEIS and are incorporated herein by reference. The DEIS will assemble relevant and material facts, evaluate reasonable alternatives, and will be written in plain language that can be easily read and understood by the public. Highly technical material will be summarized and, if it must be included in its entirety, referenced in the DEIS and included as an Appendix.

The DEIS will be written in the third person without use of the terms I, we, and our. Narrative discussions will be accompanied to the greatest extent possible by illustrative tables and graphics. All graphics will clearly identify the project site, and footnotes are the preferred form of citing references. All assertions will be supported by evidence. Opinions of the applicant that are unsupported by evidence will be identified as such.

Full scale Subdivision Plans (including the 4 step process and other cluster subdivision maps) are to be included with the DEIS as an appendix and reduced copies of such Plans will be included in the text of the DEIS.

DEIS SCOPE AND CONTENT

A. Cover Sheet. The DEIS shall begin with a cover sheet identifying the following:

1. This it is a Draft Environmental Impact Statement
2. Date Submitted.
3. The name and location of the project.
4. The Town of Warwick Planning Board is acting as the Lead Agency for the Project with the name and telephone number of a person at the Agency to be contacted for information.
5. The name and address of the Project Sponsor, and the name and telephone number of a contact person representing the Sponsor.
6. The name and address of the primary preparer(s) of the DEIS and the name and telephone number of a contact person representing the preparer.

7. Date of acceptance of the DEIS and date of SEQR public hearing (to be inserted at a later date).
8. The deadline by which comments on the DEIS are due (to be inserted at a later date).
9. A list of all Consultants involved with the project with associated names, addresses, telephone numbers and project responsibilities.
10. Table of Contents: The DEIS will include a table of contents identifying major sections and subsections of the document including a list of figures, tables, appendix items, any items submitted under separate cover, and a list of any additional DEIS volumes, if any.
11. Environmental impact issues for which the applicant submitted plans and data, all SEQR documents (including Full Environmental Assessment Form, Positive Declaration/Circulation Notice, Final Scoping Document, technical letters from involved and interested agencies) proposed mitigation measures, and correspondence prior to the Planning Board's Positive Declaration, will be resubmitted in the DEIS as an Appendix. Summaries of the materials or reference to them will be included in the DEIS to provide a complete record of all environmental review issues and their consideration.

SECTION 1: SUMMARY OF DEIS

The DEIS shall include a summary. The summary will only include information found elsewhere in the body of the DEIS but at a minimum shall include:

1. A brief description of the action (51-lot cluster subdivision of which 47 Lots are by right with 4 affordable housing units and associated internal road network.) Access to the Site will be from Old Ridge Road with proposed through road connections to adjoining lands to be built at a later date, if warranted. The proposed water and sewer services, including a discussion of individual septic systems and drilled wells or newly created water and sewer districts in accordance with § 137-83B of the Town Code.
2. A list of Involved Agencies with required approvals and permits.
3. A brief listing of the existing conditions, anticipated impacts, and proposed mitigation measures for each impact discussed in the DEIS. The presentation and format will be simple and concise.
4. A brief description of the project alternatives considered in the DEIS. A comparative assessment of the beneficial and adverse impacts of the alternatives, relative to each issue identified in the Final Scoping Document, will be provided in tabular format.

SECTION 2: DESCRIPTION OF PROPOSED ACTION

Section 2 of the DEIS will provide a description of the project site and its location, a description of the proposed project, the public need and targeted demographic, as well as the social and economic benefits of the project to the Town, the objectives of the project sponsor, and a

description of required approvals, reviews, and permits. The DEIS shall include the following information:

A. Introduction: The introduction will provide a description of the purpose of the Draft Environmental Impact Statement including a statement of the steps in the SEQRA process as it relates to the project.

B. Site Description: The site description will include the following:

1. Precise location, size, zoning and tax lot number(s) for the parcel. Provide a copy of the deed and other relevant property information in an appendix.

2. Description of existing character of the site and surrounding area within one-half mile. This shall include natural features such as streams, wetlands, ponds, woodlands or other significant features, prominent land use characteristics such as residential subdivisions, hamlets or Villages or agriculture type uses and overall general characteristics of the surrounding area and transportation corridors. Particular attention will be made to surrounding agricultural uses, especially those parcels within one-half mile of the site that have been included in the Town's Purchase of Development Rights (PDR) program or proposed for inclusion in such program. Other parcels currently proposed for development or recently approved for development including Hampton Hill, Fusco, and Eagle Trace will also be described.

3. Brief history of former uses of the site and any permits or approvals associated with prior uses, if any.

4. An identification of the exact dimensions of the property through a survey prepared by a licensed land surveyor, including any easements, rights-of-way, restrictions or other legal devices affecting the subject property's development potential. The survey will also delineate overlay district boundaries and will include a calculation of the amount of restricted areas on the site such as the acreage of easements, freshwater wetlands and regulatory adjacent areas or buffers, streams, floodplains, slopes equal to or greater than 15 percent, and hydric soils. Other resources of significance, as outlined in § 164-41.1.E(2) of the Town Zoning Law, will be included, such as prime farmland and statewide significant soils. The Site Context Map and Existing Resources and Site Analysis Plan, as required by § 164-41.1.E(1)(f) of the Zoning Law will also be provided.

C. Project Description: The Section shall include a description of the project and its potential impacts as identified in "Section 3" herein. Alternatives considered shall be discussed including conventional type subdivision and alternative cluster subdivision designs.

D. Description of the infrastructure serving the project site and/or its immediate environs including site access and the road network within a one-half (½) mile radius of the site.

E. Subdivision Plans. A description of the proposed Subdivision Plan's conformity to the Town Zoning Law and Subdivision Regulations will be presented in narrative and

graphic forms. This will include a written and detailed description of the proposed action, including the proposed use, all proposed project components and site amenities, and all information required by the Town of Warwick Zoning Law and Subdivision Regulations, including, but not limited to:

- Four Step Design Process
- Yield Plan
- Acres of open space to be protected, use of open space, and description of the method of open space preservation. Include the acreage of the proposed open space that is already restricted due to freshwater wetlands, streams, unsuitable soils for septic systems or development (from § 137, Appendix A of the Town Code) or are subject to other natural resource constraints.
- Number and type of dwelling units.
- Landscaping and site amenities to be provided.
- Acres of proposed impervious surfaces.
- On-site grading activities for road and house lot construction activities.
- Vehicular circulation system.
- Entrances onto local roads.
- Pedestrian circulation and amenities such as sidewalks, potential pedestrian and/or bicycle connections to adjoining lands (especially Hampton Hill and Fusco subdivisions), and bicycle lanes or bicycle-compatible roadways within the subdivision.
- Conformance with the Town *Design Guidelines.* Analyze and discuss the use of village-scale lots in a rural setting so that several smaller neighborhoods can be designed on the site, such as that shown on the graphic illustration.

QuickTime™ and a decompressor are needed to see this picture.

This section will include a point-by-point description of how the proposed subdivision plan complies with or is inconsistent with the Agricultural Protection Overlay District (AP-O) guidelines for design of house lots found in § 164-41.1.H of the Zoning Law.

The yield plan required for establishing a lot count in the proposed cluster subdivision will address the following:

- DEC Water Index # for the on-site tributary to Quaker Creek
- Justification for placement of septic systems in soils not suitable for septic systems (if any)
- Percolation and deep test pit information for each lot or use of the Environmental Control Formula found in § 164-41.3
- Profiles for proposed roads and a discussion of their design as public/private roads and common drives.

F. Utilities. This section will include a summary of the Applicant's preferred plans for water supply and sewage disposal as well as a discussion of § 164-41.1(M) of the Zoning Law, which encourages shared or community sanitary sewage disposal systems for cluster developments. The summary will include a statement regarding a community sewerage system and a community water supply system, as required by

Part 74 of the New York State Sanitary Code. This statement will include the applicant's justification for a request for a Variance from the State requirement that all subdivisions of 50 or more lots provide such community systems (see Part 74.6). Discuss community water supply and sewerage systems in light of the other currently proposed and adjoining Hampton Hill and Fusco subdivisions (see also the need for cumulative impact analysis under Water Supply and Sewage Disposal in Section 3 below). Discuss other public utilities available to the site including electricity, telephone, cable, gas or other. See also Section 3N below.

G. Objectives of Project Sponsor. The objectives of the project sponsor will be clearly stated.

H. Project Purpose, Need and Benefits. The public need for the proposed action, including its social and economic benefits to the community, will be provided. This section will also provide a statement of consistency with adopted policies and/or plans set forth within the Town's *Comprehensive Plan* and *Community Preservation Project Plan*. The size, scale, and potential market for the proposed dwellings will be identified and discussed. The proposed four affordable housing units will also be discussed.

I. Construction. This section will include a discussion of:
   1. Expected year of project completion
   2. Construction periods and phasing including a flowchart for the maximum anticipated duration, the start and completion of key milestone tasks such as site clearing, grading and fill placement, infrastructure, foundations, and site amenities
   3. Safety plans if any construction activities will be on-going after any part of the subdivision is in use
   4. Environmental protective measures such as stormwater pollution prevention, topsoil stockpiling, noise reduction, and soil erosion and sediment control
   5. Hours and days of the week when construction operations will occur
   6. Construction access and staging, including routing of heavy machinery and trucks on Town roads
   7. Areas for material handling and storage

J. Operations. This section will include descriptions of:
   1. The proposed management of the open space areas
   2. Any planned activities related to continuation of farming
   3. For community water supply and sewerage systems, the method of operation and management including district formation or Transportation Corporation.

K. Involved and Interested Agencies and Required Approvals: List all required or requested approvals and the associated involved agencies that have permitting or approval authority. Also list Interested Agencies, which are those agencies that have expressed, or are likely to have, an interest in the project but who have no permitting or approval authority. Both Interested and Involved Agencies will receive copies of the DEIS.

Agencies identified as Interested and Involved include:

Town of Warwick Town Board
(Involved: Water and Drainage Districts, Road Acceptance, Other Improvement

Districts)
132 Kings Highway
Warwick, NY 10990

NYS Department of Environmental Conservation
(Involved: Point and Non-Point SPDES, Water, Wetlands, Natural Heritage, Community Septic or other community sewerage)
Region 3
21 South Putt Corners Road
New Paltz, NY 12561

NYS Office of Parks, Recreation and Historic Preservation
(Interested: Cultural Resources)
Field Services Bureau – Peebles Island
PO Box 189
Waterford, NY 12188-0189

Orange County Department of Planning
(Interested: General Municipal Law Review)
124 Main Street
Goshen, NY 10924

Orange County Department of Health
(Involved: Realty Subdivision, Sewage Disposal, Water Supply, Variance from Part 74 requirement of community water system and community sewerage system)
124 Main Street
Goshen, NY 10924

US Army Corps of Engineers
(Interested: Federal Jurisdictional Wetlands)
Regulatory Branch - New York District
Room 1937
26 Federal Plaza
New York, New York 10278

USEPA (Interested: EPA would be an involved party for consideration of a Class V injection well if community septic is feasible)

New York State Department of Transportation
(Interested)
4 Burnett Blvd.
Poughkeepsie, NY 12603

Town of Warwick Conservation Advisory Board
(Interested)

Florida Union Free School District
(Interested)

United States Fish & Wildlife Service
(Interested)
NY Field Office
3817 Luker Rd.
Cortland, NY 13045

SECTION 3: ENVIRONMENTAL SETTING: EXISTING CONDITIONS, ANTICIPATED IMPACTS AND PROPOSED MITIGATION

This section of the DEIS will identify the existing environmental conditions, potential impacts of the action, and proposed mitigation measures for each of the major issues identified in this Final Scoping Document. The format or organization of this section will include the following subsection headings for each topic:

- Existing Environmental Setting
- Potential Environmental Impacts
- Proposed Mitigation Measures

Sections 3.A ~ 3.N of the DEIS will evaluate the potential significant adverse impacts to both natural and human resources resulting from the proposed Mountain View Estates Subdivision, including cumulative impacts and secondary effects, if applicable. Cumulative impact analysis will address a number of other pending or recently approved residential developments in the immediate vicinity of the proposed project. These are listed below together with their status. Cumulative analysis will include the traffic analysis, need for community water and sewer services for developments that could feasibly be connected with the Mountain View Estates Subdivision (if such subdivision were provided with central utility services), and as appropriate stormwater runoff, town and school district services, and community character.

Other Residential Developments in Project Vicinity			
Project Name	**Units**	**SBL/Location**	**Status**
Fusco	13 du's	18-1-31.2 22 Taylor Road. @ Jessup Road	Pending
Hampton Hill	20 du's	18-1-27 Spanktown & Jessup Roads	Pending
Glenmere Preserve	210 Adult du's	113-4-2.1 & 2.2 Village of Florida	Pending
DeHaan (Pond-in-the Meadow)	3 du's	19-1-50, 51 & 52 626 State Hwy 94 N	Final Approval
Villari	4 du's	33-1-29 611 State Hwy 94 N	Final Approval
Eagle Trace	4 du's	19-1-30.2 Morgan Lane (Ridgeway Loop)	Final Approval
Dayspring-Baum	11 du's	31-2-2 & 8 Old Ridge & West Ridge Roads	Pending

Potential impacts resulting from the proposed action will be graphically presented on maps and discussed in the DEIS text. This evaluation will be objective and will constitute disclosure of both quantitative and qualitative information. Adverse impacts that cannot be mitigated will be specifically identified, the magnitude of those impacts will be evaluated and such impacts will be specifically identified in Section 4, Unavoidable Adverse Impacts.

A. Soils and Geology

Surface and subsurface soil and rock conditions on the site will be evaluated. Associated impacts relevant to these features, due both to site grading and long-term residential use of the site will be addressed. Specify whether blasting is anticipated; if so, quantify to the extent practicable. Constraints imposed by soils, geology, and topographic conditions will be fully evaluated, including construction limitations, permeability, and seasonal high water table.

EXISTING SETTING

This section will include:

- Identification of the existing on-site soils according to the United States Department of Agriculture's Orange County Soil Survey.
- Table of on-site soils identifying construction limitations, permeability, depth to bedrock, and seasonal high water table for each soil, using both the Soil Survey information as well as information found in § 137, Appendix A of the Town Code.
- Since a significant portion of the development is situated in soils which are marginally suitable for septic systems, this section should investigate the soil types mapped at septic disposal system sites and revise or verify the SCS Soil Map. The Town Code requires "central sewer" for subdivisions greater than 49 lots, unless waived by the DEC Commissioner "if warranted by soil characteristics".
- Identification of existing rock outcrops.
- Identification of existing on-site slopes ranging from 0 -15%, 15 - 25% and greater than 25%.
- Identification of unusual geologic conditions including mapping of such areas on-site

POTENTIAL IMPACTS

This section will include the following items:

- The proposed grading plan will be provided at a scale of 1" = 100'.
- Identification of rock and soil removal (if any), including the need for blasting. In the event that blasting may be necessary, areas of possible blasting and material quantities will be explored.
- Slopes analysis identifying the amount of disturbance within each slope category.
- Description of soils that will be disturbed by the proposed project; include the potential for disturbance to hydric soils, prime agricultural soils and soils of statewide significance.
- A discussion of potential soil erosion based on soil type.
- Identify how subsurface conditions affect septic use and if there are any foreseeable impacts on proposed or existing wells and public water supply.

- Evaluate any unusual geologic conditions associated with the bedrock and what impacts or limitations that such conditions would have on the proposed development.

PROPOSED MITIGATION MEASURES

- Discussion of a blasting plan, if needed, including blasting methods and minimization, a blast monitoring and safety plan, and measures to be implemented to protect existing structures or nearby residential groundwater wells, if any are located near blasting locations.
- An estimate of proposed cut and fill earthwork volumes. If earthwork volumes cannot be balanced on the site, the anticipated volume of earth/rock to be imported to, or exported from the site shall be defined, the number of truck trips associated with such import/export shall be estimated, and the anticipated routing of such truck trips shall be identified.
- Discussion of the Erosion and Sediment Control Plan, designed to be in conformance with DEC's *SPDES General Permit for Stormwater Discharges from Construction Activities that are Classified as Associated with Construction Activity,* to be implemented during the development of the site.
- Discussion of Best Management Practices.

B. Water Resources

This Section will evaluate the pre- and post-development conditions of surface waters, floodplains, wetlands, and groundwater resources located within or in close proximity to the proposed project site, as designated by mapping provided by the Federal Emergency Management Agency (FEMA), US Geological Survey (USGA), National Wetlands Inventory (NWI), New York State DEC, and through on-site field delineations. The following reference resources are to be consulted where appropriate:

- *Reducing the Impacts of Stormwater Runoff from New Development*, NYSDEC, April 1993.
- *New York Guidelines for Urban Erosion and Sediment Control* (1997).
- Compliance with water quality mandates and guidelines promulgated by NYSDEC pursuant to Environmental Protection Agency (EPA) Phase II Stormwater Regulations (1999), including the New York State *Stormwater Management Design Manual* (August 2003).

EXISTING SETTING

The following will be described in this section:

- Pre-development drainage patterns and conditions.
- The relationship of surface water patterns to hydrologic characteristics, including subsurface aquifers.
- Identification and classification of on-site and adjacent streams and wetlands, including State verification of all DEC field delineations (if any) and Town or Federal verification of all Federal Jurisdictional Wetlands.
- Existing stormwater patterns for 2-, 10-, 25-, 50-, and 100-year storms.
- Identification of any mapped FEMA-delineated floodplains.

- Presence, extent, and present use of groundwater resources. Determine the characteristics of the aquifer, including but not limited to its thickness, material composition, and whether it is confined or unconfined. Verify and determine the extent of the aquifer on the site.
- Existing groundwater quality and availability for on-site use.

The applicant's parcel includes the headwaters of a tributary stream to the Wallkill River and is entirely situated in the Southern Wallkill River Watershed. The watershed is undergoing stress from increased development and changes in land use. A *Wallkill River Watershed Conservation and Management Plan(January 2007)* was developed by the US Dept. of Interior Soil & Water Conservation District to promote measures to restore, preserve, and enhance the Wallkill River and its tributaries through management of the uses within the watershed. The EIS should discuss how the proposed development will coordinate with the intent of the *Conservation and Management Plan*, specifically commenting on the following topics:

- Measures to restore and/or preserve the stream channel through the parcel.
- The Executive Summary of the *Conservation and Management Plan* notes that "existing regulations and other programs are not adequate to protect water quality and quantity in streams, groundwater formations, wetlands and other water bodies." The EIS shall include discussions of:
    - Management of solid wastes (floatables),
    - Management of sanitary runoff (organics) and infiltration,
    - Management of runoff from impervious surfaces (inorganics, minerals, etc.). Include an impervious surface analysis.
- Measures to protect water resources.
- Measures to provide for stormwater management.
    - downstream and on-site flood control,
    - erosion control measures,
    - LID and BSD efforts (noted in the Executive Summary as approaches that attempt to minimize adverse impacts).

Measures to provide for recreational opportunities within the watershed.

POTENTIAL IMPACTS

This section will include a discussion of the following items:

- Post-development drainage patterns and conditions.
- Stormwater quality, runoff, and peak discharge rates for the 2-, 10-, 25-, 50-, and 100-year storms. The ability of on- and/or off-site receiving waters to assimilate additional runoff will be evaluated. The volume of sediment, nutrients and other pollutants that could adversely affect these surface waters, including both construction-related pollutants as well as pollutants that can be expected to be generated by roads, driveways, rooftops, lawns, and landscaping will be estimated and associated impacts evaluated against the proposed

mitigation measures, including the use of "green" or "low-impact" mitigation measures discussed under Proposed Mitigation Measures below. Calculate pollutant loading for both pre- and post- development for the following pollutants (see pages 2-3 of the DEC *Stormwater Management Design Manual*) and present for review : BOD, COD, TSS, TDS, total phosphorus, total nitrogen (including Nitrates/nitrites), lead, copper, zinc and cadmium. The Simple Method (Scheuler, T. 1987.*Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs*. Metropolitan Washington Council of governments, Washington, D.C.) or a comparable professionally accepted method, may be used for this purpose, but the same method must be used for all calculations. Results should be presented in tabular form so that pre-development pollutant load can be compared to post-development load. Oil and grease and chlorides (i.e. road salt) are other common constituents of stormwater runoff that will also be considered during impact assessment.

- Potential impacts (if any) to floodplains due to re-grading.
- Potential sedimentation of water bodies.
- Potential impacts to stream and wetland areas including adjacent wetlands in the Long Meadow Wetland Complex.
- Potential short-term impacts to be assessed regarding construction of the project, as well as potential long-term impacts relative to the habitation of the site.
- Potential impacts to on-site and off-site groundwater resources from 51 new wells and the cumulative effects of such wells with other pending and/or recently approved residential developments. Demonstrate a qualitative and quantitative understanding of the hydrologic relationships of groundwater in soils, overburden, and bedrock with the wetlands, streams, on-site recharge areas and off-site recharge areas. Determine the characteristics of the aquifer, including but not limited to its thickness, material composition, and whether it is confined or unconfined. Study and report on any foreseeable impacts on proposed or existing wells and public water supply. Work closely with the Town Engineer to devise an appropriate methodology.
- Address alternative means of water supply including creation of a public water supply.

PROPOSED MITIGATION MEASURES

- Discussion of stormwater quality and management and implementation of Best Management Practices (BMPs). Inclusion of a Stormwater Pollution Prevention Plan (SWPPP) that addresses the requirements of the Town of Warwick, Orange County, NYSDEC and other appropriate regulatory authorities. Use of "low impact development technologies" such as permeable pavements, rain gardens, bioretention basins and other practices described at http://www.lowimpactdevelopment.org/, especially in relation to aquifer regeneration as well as water conservation and use.
- Discussion of compliance with applicable wetlands and stormwater regulations.
- Discussion of Erosion and Sediment Control Plan as it pertains to water quality.
- Discussion of the Town Code's requirement for "central water" for subdivisions greater than 49 lots, unless waived by the DEC Commissioner "if warranted by soil characteristics".

C. Vegetation and Wildlife

This Section will identify and evaluate the vegetative characteristics of the site and will provide an inventory of the representative flora and fauna for on-site ecological communities by a qualified biologist. The existence of Endangered, Threatened, Special Concern, and Rare (ETR) plants and wildlife on or in the vicinity of the project site will be identified and evaluated using the DEC Natural Heritage Program files, direct contact with Natural Heritage Program staff, review of U.S. Fish and Wildlife Service database, and a field survey conducted during the appropriate times of year.

Potential project impacts will be discussed in connection with site-specific development plans. Mitigation measures will be developed to avoid or minimize project impacts as necessary.

EXISTING SETTING

- Identification and description of on-site vegetative communities as described in *Ecological Communities of New York State* (Reschke, 1990) will be provided.
- Review of DEC Natural Heritage Program files (shading in graphic below shows rare plant and rare animal communities and significant natural communities on-site), discussion with Natural Heritage Program staff, and review of the U.S. Fish and Wildlife Services database for ETR species that may exist on the site will be undertaken, along with a field survey conducted during appropriate times of year. Particular attention should be placed on the wetlands and the on-site tributary to the Quaker Creek.

QuickTime™ and a decompressor are needed to see this picture.

- Biodiversity assessment of the site and its interrelationship to the identified "Wheeler/Stony Creek" complex on or in immediate proximity to the site.[1] Use the methodology outlined in the *Southern Wallkill Biodiversity Plan* for conducting the assessment.
- In determining "existing on-site flora and fauna", a comprehensive survey of the site, resulting in a list, should be performed based on recognized sampling techniques. Investigate reports of a Spotted turtle (*Clemmys guttata*) a Species of Special Concern being located in the vicinity of the site. Identify invasive and/or non-native species that may be present on the site (such as mile-a-minute weed).

POTENTIAL IMPACTS

[1] The *Southern Wallkill Biodiversity Plan* identifies this area as follows: *"This stream complex offers habitat for a variety of declining and listed turtle species, in addition to other taxa. It also connects the Mount Adam/Mount Eve biodiversity area northward to other habitats. Much of the streamside habitats are rural and only lightly developed, but care should be taken to maximize further impacts related to development."*

An evaluation of potential impacts to vegetation and wildlife resulting from the proposed development will be provided with regard to potential disturbance, loss or removal, and reduction of function of existing plants and vegetative communities, wildlife corridors, as well as habitats for wildlife species. Particular attention will be given to the effects of the proposed plans on biodiversity (see Southern Wallkill Biodiversity area on site at right), the direct loss of habitat areas, the amount of existing vegetative cover likely to be modified and the nature of that modification (e.g. pavement, landscaping, etc.), including wetland disturbance and/or reduction and fragmentation of habitat supporting on-site wildlife will be identified for each vegetative community. Potential impacts associated with a reduction of existing vegetative cover and existing habitats and impacts on trees will be discussed. Impacts on biodiversity resulting from development of a large land holding including the cumulative development of other nearby parcels that are under review by the Town of Warwick, and the resulting effects on wildlife populations and plant species, will be discussed. Impacts of the proposed project on deer population will be determined by a qualified biologist, including the consequences of this potential impact on vegetation (both existing and proposed landscaping) as well as other wildlife. If invasive and/or non-native species are present on the site, to what extent will the site development have the potential to "spread" such species into the surrounding area.

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PROPOSED MITIGATION MEASURES

A discussion of applicable mitigation measures identified as necessary, recommended in the *Southern Wallkill Biodiversity Plan,* or required by DEC and/or U.S. Fish and Wildlife Services will be provided. Such mitigation includes but is not limited to permanent open space designation of all identified biodiversity areas, increasing the amount of protected open space beyond the proposed 53.5 percent, establishment of generous vegetative buffers around streams and wetlands, the adoption of landscaping schemes which focus both on the use of native vegetation and the enhancement of species diversity on the site, habitat improvements, and the avoidance and/or salvaging of any trees of significance.

D. Cultural Resources

EXISTING SETTING

A Phase I Historic and Archaeological Resource Survey will be completed to evaluate the potential for historic or archaeological resources located on the site. This survey will be conducted in conformance with the procedures specified by the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP). The survey will include discussion with the Town Historian.

The results of the survey will be summarized in the DEIS and copies of correspondence from the OPRHP will be included in an appendix. A description will be provided of prominent and/or unique cultural features including stonewalls and other indications of historic agricultural activity on the site.

POTENTIAL IMPACTS

An evaluation of potential impacts to historic and archaeological resources from the proposed development will be provided. The presence of culturally sensitive areas on the site (if any) as identified in the Phase I Historic and Archaeological Resource Survey will be identified and discussed.

PROPOSED MITIGATION MEASURES

A discussion of possible mitigation measures will be provided as necessary or as required by the OPRHP. Provide Phase II Survey results if applicable.

E. Visual

This Section will provide a visual impact assessment through the use of narrative text, photographs, and landscape architectural drawings such as plans, sections, elevations, or other graphic representations of existing and proposed conditions. This Section will also describe the visual character of the neighborhood and the visual relationship between the project site and the surrounding residential area, particularly with respect to adjacent properties and remote locations where the proposed development might be visible, such as scenic areas and scenic roads identified in the Warwick *Comprehensive Plan*. The analysis will address existing site conditions, natural, agricultural and rural features contributing to the visual quality of the site, its surrounding environment, and the visual relationship between the project site and the surrounding area. The change and impact of the proposed project on the existing visual character and rural and agricultural quality of the area will be discussed in light of the site's location in the Town's Ridgeline Overlay District and the additional regulations in place to control new development within this district.

EXISTING SETTING

The areas from which the site will be visible will be defined. The analysis will use the methodology described in the DEC publication entitled *Assessing and Mitigating Visual Impacts* (see Program Policy DEP-00-2, July 31, 2000). Visual conditions are to include:

- A discussion of the elements that contribute to the visual image and character of the project site will be provided. Photographs of the site from at least six (6) critical receptor points, as approved by the Town of Warwick Planning Board, will be provided.
- A description of the project's visibility from Old Ridge Road.
- A description of the project's visibility from other locations as identified below:

    - Four Locations along Old Ridge Road including two looking east into the future developed site and two looking west into the future developed site

    - Jessup Road at location where project site develwopment would be visible

- Taylor Road at location where project site develwopment would be visible

POTENTIAL IMPACTS

A description of the changes in visual character of the site and surrounding areas will be provided. This section will also discuss the impact on the view from the critical receptor points, the potential for road lighting, and the project's potential effects on the rural character of the area.

PROPOSED MITIGATION MEASURES

Proposed mitigation measures will be discussed as necessary or recommended based on the results of the visual impact analysis.

F. Transportation

This Section will include a Traffic Impact Study that evaluates existing traffic conditions compared to conditions anticipated upon completion. The Traffic Impact Study will address the potential transportation impacts and will identify mitigation measures to avoid or minimize the potential impacts.

EXISTING SETTING

- A Traffic Impact Study (TIS) will be completed for the project using standards and guidelines in common use and as developed by the New York State Department of Transportation (DOT), the Institute of Transportation Engineers (ITE), the Highway Capacity Manual (HCM) and the DOT's and Federal Highway Administration (FHWA) for Context Sensitive Solutions (see below for website addresses). In particular, the study will evaluate the following intersections during the AM and PM peak traffic periods and the weekend peak period(s):
    - Entrances to project site and Old Ridge Road
    - Old Ridge Road and Taylor Road
    - Old Ridge Road and NYS Route 17A at northerly intersection (the existing geometry of this intersection requires careful evaluation)
    - Old Ridge Road and NYS Route 17A at southerly intersection
- All available traffic data, including accident data for the preceding five year period, will be collected from NYSDOT, Orange County Department of Public Works, and the Town of Warwick for the studied intersections and analyzed and discussed in this Section.
- A description will be provided of roadways and roadway conditions directly serving the site, including number of lanes, posted speed limits, existing public transportation facilities serving the area and region, and existing traffic routes for trucks and traffic controls.
- Pedestrian and bicycle movements and facilities in the area, especially any existing or potential linkages with adjoining lands such as Hampton Hills and Fusco, will also be identified and discussed.

- Future road connections with adjoining properties in the Town will be discussed.

- The traffic study will consider approved and pending projects in the area (see tabular list above).

POTENTIAL IMPACTS

A discussion will be provided of potential impacts identified in the TIS, including:

- Potential impacts to the road network.

- Access to the site from Old Ridge Road and potential future connections to adjoining lands as well as the results of the cumulative analysis with other proposed and pending projects.

- Sight distances.

- Pedestrian circulation and bicycle movements.

The condition, safety and adequacy of Old Ridge Road and other roads affected by the additional generation from the project will be discussed in light of its capacity to handle the additional traffic and the effect the proposed project and any related improvements to the roads will have on community character and quality of life for neighborhood residents.

PROPOSED MITIGATION MEASURES

Applicable mitigation measures will be proposed, including those identified in the TIS. Discussions of access points relative to traffic safety, emergency access, construction vehicle access, and provisions for bicycle and pedestrian facilities within the project will be included. Any improvements proposed to Old Ridge Road and other roads affected by the additional traffic generation from the project will include an assessment and discussion of Context Sensitive Solutions (CSS) or Context Sensitive Design through guidance provided by the New York State Department of Transportation at http://www.nysdot.gov and at the Federal Highway Administration's website at http://www.flhwa.dot.gov/context/what.cfm.

Address the feasibility of providing potential connections to Taylor Road and Ridgeway Loop.

G. Land Use and Zoning

A discussion will be presented of the proposed project's compatibility with the existing land use and zoning on the site and in the surrounding area.

EXISTING SETTING

- Discussion of the existing land uses and zoning designations on-site and on adjacent properties and in the surrounding area (i.e. within ½ mile). Discuss the largely rural and agricultural character of the surrounding community along Old Ridge Road.

- Discussion of recommendations for the site and surrounding area from the Town's *Comprehensive Plan*, *Community Preservation Project Plan*, and the *Orange County Plan*. A brief summary of the goals and objectives found in each of the referenced plans will be provided.

- Discuss the Design Guidelines recommendations for residential development.

- Discuss the historic agricultural use of the site including farm structures, soil fertility and previous crop and/or animal production. Discuss permits or approvals associated with prior uses, if any.

POTENTIAL IMPACTS

Land Use

- A discussion of the proposed project's compatibility with surrounding land uses and the potential impacts on the rural and agricultural character of the area along Old Ridge Road will be provided.

- Potential impacts of the proposed project to surrounding land uses will be discussed.

- Consistency with the Town's *Comprehensive Plan*, *Community Preservation Project Plan*, and the *Orange County Plan*. Aspects of the proposed action that would deviate from conformance with any of the above plans will be identified and an evaluation of why such deviation is proposed will be provided.

- Discuss the agricultural viability of proposed lot # 1, which is proposed as a lot for the existing farmstead, but which is predominantly wetlands, steep slopes and poor quality soils.

Zoning

- The proposed project's compliance with the Zoning Law, including the intent and purposes of the Zoning Law, the provisions of § 164-41.1 (the cluster regulations) including the siting guidelines for lands within the Agricultural Protection Overlay (AP-O) District, and other relevant sections of the Zoning Law will be analyzed and discussed.

- Discuss consistency with the Town Design Guidelines and the rationale proposed for all areas where the subdivision plans do not conform to the Town's design guidelines, design standards, or subdivision standards. Consider placement of the houses closer to the roads and to each other to foster a better sense of community.

- Discuss compliance of the yield plan with the Town Zoning Law and Subdivision Regulations.

PROPOSED MITIGATION MEASURES

A discussion of any applicable and appropriate mitigation measures will be provided.

H. Police, Fire and Emergency Medical Services

This section will evaluate the potential impacts of the proposed project on existing police, fire, and emergency services in the Town of Warwick. Information will be based on conversations with and correspondence received from service providers and available online resources.

EXISTING SETTING

Police Services

Identification of State, County, and local Police Departments that provide police coverage to the project site, with a description of the following information for each:

- Station locations.
- Staffing levels.
- Average response time expected to the project site.
- Any existing deficiencies in staffing or facilities, if available.
- Any planned or proposed expansions or improvements to address the deficiencies.

Fire and Emergency Medical Services

Identification of Fire Departments and/or Emergency Medical Service (EMS) providers that service the project site will be provided based upon discussions and correspondence with the respective departments. This will include a description of the following information for each:

- Station locations.
- Staffing levels (with subtotals of paid staff and volunteers).
- Average response time expected to the project site.
- Inventory of equipment including the number and type of apparatus and the ability of the equipment to serve the proposed buildings.
- Discussion of existing water supply for fire protection.

POTENTIAL IMPACTS

- A discussion of how the proposed action may affect these municipal services will be provided.
- The adequacy of the existing services, facilities, staff and equipment to handle the increased demand generated by the proposed development will be evaluated.
- The ability of the proposed road system and access points to accommodate emergency vehicles and equipment will be discussed.
- The capacity of the water supply system to meet future fire demands of the proposed project will be discussed.

PROPOSED MITIGATION MEASURES

Proposed mitigation measures to minimize or avoid identified impacts will be provided.

I. School District Services

This section will evaluate the potential impacts of the proposed project on the Florida Union Free School District. Information will be based on conversations with and correspondence received from the District and available online resources.

EXISTING SETTING

A description of existing school facilities serving the project site (elementary, middle-school, and high school) will be provided, including:

- Total student capacity.
- Current enrollment.
- Existing school transportation routes (based on data to be supplied by the School District to the extent available).
- Discussion of relevant studies regarding School District capacity and enrollment trends.
- Discussion of any expansion or improvements planned by the School District.

POTENTIAL IMPACTS

- An estimation of the number of public school children to be generated by the proposed project will provided based on multipliers in the 1994 Urban Land Institute's *Development Impact Assessment Handbook* or use Florida's data, if available.
- The potential impacts of the estimated additional school children on school capacity will be evaluated.
- Projected School District costs and tax revenues generated by the proposed project will be evaluated. A discussion of the anticipated additional tax revenue generated in comparison to the expected cost of educating the additional children associated with the proposed project will be presented. Cross-reference the results of the fiscal impact section here (see below).

PROPOSED MITIGATION MEASURES

Proposed mitigation measures to minimize or avoid identified impacts will be provided.

J. Fiscal Impact Analysis

EXISTING SETTING

This section will include a discussion of the existing revenues and anticipated taxes generated from the site development and any existing municipal costs related to the site for all applicable jurisdictions – Town (including highway), County, School District, and any special districts.

POTENTIAL IMPACTS

A discussion of the projected costs and revenues associated with the project will be performed using the methodology identified in the *Fiscal Impact Handbook* and updates, prepared for each taxing jurisdiction. The assumptions on which costs and revenues are based will be clearly presented. Use the Florida Union Free School District data for the school analysis, if available.

MITIGATION MEASURES

As required.

K. Recreation and Open Space Resources

This section will evaluate the potential impacts of the proposed project on existing recreation and open space facilities in the Town of Warwick.

EXISTING SETTING

A description of existing recreation and open space resources will be provided, including:

- Existing recreational facilities and public open space areas in the Town of Warwick that can potentially be used by the future project residents.
- On-site recreational amenities, if any are proposed.
- On-site open space to be preserved including the method used for permanent protection.
- Any existing deficiencies in recreational facilities and/or plans for improvements/expansions to any facilities.
- Reference any results from the discussion of the Town's adopted *Community Preservation Project Plan* recommendations for open space or recreation for the site here (see Section G herein).

POTENTIAL IMPACTS

A discussion of potential impacts associated with the proposed project on the Town's recreational facilities will be provided. The evaluation will be based on standards such as the National Recreation and Park Association (NRPA) for community needs regarding parks, public open space, and recreational facilities.[2] An evaluation of the potential for a park, playground, or other recreational amenities to be located on the property, as required by § 137-23 of the Town of Warwick Code, will be analyzed and discussed. Discuss proposed management and use of the open space on the site.

PROPOSED MITIGATION MEASURES

Proposed mitigation measures to minimize or avoid identified impacts will be provided.

L. Utilities—Water

This section will evaluate potential impacts regarding water supply.

EXISTING SETTING

This section will analyze availability of existing groundwater for individual wells or a water district in the project area. Water quality as it relates to Department of Health drinking water standards will be discussed.

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[2] *Recreation, Park and Open Space Standards and Guidelines*, National Recreation and Park Association, 1990.

POTENTIAL IMPACTS

This section will provide an evaluation of projected water use and water supply capacity to meet the estimated project-generated water demand, and a discussion of potential impacts to subsurface aquifers and the long-term capacity of the area's water supply. This section will also analyze potential impacts to existing wells in the vicinity of the project site. Discuss and consider alternate means of water supply including creation of a Public Water Supply. Discuss the feasibility of creating a water supply for the site and potentially other nearby sites including Hampton Hills and Fusco at a minimum.

PROPOSED MITIGATION MEASURES

Applicable water supply mitigation measures will be identified and discussed including water conservation measures.

M. Utilities—Wastewater

Potential impacts regarding wastewater treatment and disposal will be addressed in this section.

EXISTING SETTING

- A discussion of the area's existing wastewater generation and disposal processes will be provided.
- The suitability of on-site soils to properly treat septic effluent will be provided. This section should also investigate the soil types mapped at septic disposal system sites and revise or verify the SCS Soils Map.
- Discuss potential impacts on unique geologic conditions (if any) on the site.

POTENTIAL IMPACTS

- Estimates of wastewater generation will be provided.
- A discussion will be provided describing the proposed septic disposal systems. Equal weight should be given to consideration of community septic/treatment plant and individual septic systems. Discuss a potential regional sewage treatment facility.
- An evaluation of the potential for contamination of on-site and nearby water resources, including wetlands, streams, or aquifers, will be provided based on the expected wastewater generation and drainage patterns.

PROPOSED MITIGATION MEASURES

Applicable wastewater treatment mitigation measures will be identified and discussed.

N. Other Utilities

Potential impacts regarding electrical capacity and distribution will be addressed in this section.

EXISTING SETTING

- A discussion of the area's existing electrical generation, local capacity and use will be provided.

POTENTIAL IMPACTS

- Estimates of electrical generation will be provided per home and for the subdivision as a whole.
- A discussion will be provided describing the need for improvements to the electrical grid including new feeder lines or other infrastructure necessary to service the 51 new dwellings.
- Discuss proposed hearing and cooling methods for each dwelling including the use of alternative methods such as geothermal, solar, biofuels, and so on.

PROPOSED MITIGATION MEASURES

Applicable electrical capacity mitigation measures will be identified and discussed including methods to reduce electrical use. See also the alternatives section for an examination of Energy Star and/or LEED certification programs for reducing energy use.

SECTION 4: ADVERSE IMPACTS THAT CANNOT BE AVOIDED

This section will describe those impacts that cannot be avoided regardless of mitigation measures that are implemented.

SECTION 5: ALTERNATIVES

The following alternatives to the proposed action are to be evaluated in terms of the impact issues listed above, when applicable. The alternatives can be provided "stand-alone" or combined in an alternative design but each alternative must be included.

1. No Action Alternative.
2. Conventional Subdivision.
3. Reduced scale Cluster Subdivision in accordance with Orange County Department of Planning's and Town of Warwick Conservation Board's recommendation to *"substantially decrease the number of proposed lots."*
4. Alternative ownership of the open space areas other than the Homeowners Association. Discuss protection of the open space through use of conservation easements or fee ownership by the Town of Warwick, the Warwick Conservancy, the Orange County Land Trust, or other *bona fide* land trust.
5. Cluster subdivision alternative that combines the five distinct open space areas into one or two contiguous open space areas.
6. Cluster subdivision alternative that maximizes the on-site buffers to surface water resources. A goal would be a buffer area of 200 to 300 feet as recommended by biologists for wetlands and streams and up to 750 feet to vernal pools if present on-site.
7. Cluster subdivision alternative that offers passive recreational use of the open space, such as a trail system or other recreational use of the on-site creek and ridgeline areas.
8. Cluster subdivision alternative that confines the areas of house lot construction and roadways to the "potential development areas" identified on the 4-step conservation subdivision design process.
9. Cluster subdivision alternative that maximizes preservation of the existing agricultural fields. Address each siting guideline in § 164-41.1(H)(7) in both text and graphics. The existing farm is within the Town's Agricultural Protection District, it

contains excellent agricultural soils, is identified in the Town's *Community Preservation Project Plan* as a Target Parcel, is in an area with a number of existing farm operations several of which are being considered or have already been included in the Town's Purchase of Development Rights Program and are currently used for farming.

10. Other Alternative Designs for Cluster Subdivision to avoid or reduce identified adverse environmental impacts

SECTION 6: IRRETREIVABLE AND IRREVERSIBLE COMMITMENT OF RESOURCES

This section will describe the resources described in Section IV that will be consumed, converted, or made unavailable for future use.

SECTION 7: GROWTH INDUCING IMPACTS

This section will describe the potential growth aspects the proposed project may have, including impacts on population, business and further development potential.

SECTION 7: EFFECTS ON USE AND CONSERVATION OF ENERGY

Section 7 will discuss the energy sources to be used for the proposed project, the anticipated levels of energy consumption, and proposed energy conservation measures. The Applicant will also analyze and discuss the use of alternative (i.e. other than fossil fuels) energy resources for heating, cooling and power, including the use of solar energy or groundwater source heat pumps. Analyze and discuss LEED certification for all 51 houses.

SECTION 8: SOURCES AND BIBLIOGRAPHY

SECTION 9: APPENDICES

Appendices to include the following at a minimum:

1. **All SEQR documentation**
2. **Copies of all official correspondence related to issues discussed in the DEIS**
3. **Copies of all technical studies (traffic, drainage, cultural resources, etc.).**

3) **Planning Board Minutes of 3/5/08 –** Planning Board Minutes of 3/5/08 for Planning Board Approval. (On 3/31/08 @ 9:40 a.m. I emailed the minutes to PB).

Mr. McConnell makes a motion to Approve the 3/5/08 Planning Board minutes.

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

Correspondences:

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. Let the record show no public comment.

Mr. McConnell makes a motion to adjourn the April 2, 2008 Planning Board meeting.

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