

TOWN OF WARWICK PLANNING BOARD
April 21, 2010

Members present: Chairman, Benjamin Astorino
Russell Kowal, Dennis McConnell
Carl Singer, Beau Kennedy
Laura Barca, HDR Engineering
J. Theodore Fink, Greenplan
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, April 21, 2010 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

Review of Submitted Maps:

Fairgrounds #1 (Amended) Site Plan Approval

Application for "AMENDED" Site Plan Approval and Special Use Permit for the construction and use of a commercial building entitled Autozone approximately 7,300 s.f., situated on tax parcel S 50 B 1 L 40.2; parcel located on the northern side of NYS Route 94 1500 feet east of Warwick Turnpike, in the DS zone of the Town of Warwick.

Mr. Astorino: Before we get started, today is Administrative Assistants Day. On behalf of our Professionals and the Board, we would like to thank Connie for all of the hard work that she gives us. We appreciate everything.

Connie Sardo: Thank you. Thank you for the beautiful roses that I received today.

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

The following review comments submitted by HDR:

- 1 Board to discuss SEQR.
- 2 Applicant to discuss project.
- 3 Fairgrounds #1 approved two buildings on tax lot 51-1-40.2: Price Chopper (56,038-sf) and a second building (bank) with 3,600-sf; for a total of 59,038-sf.
- 4 The Applicant should demonstrate that the increase in building square footage for Fairgrounds #1 will still be in conformance with the bulk requirements for this site (floor area ratio, lot coverage, and building height).
The lot coverage calculation should be clarified.
- 5 This amended site plan shall demonstrate that the parking space requirements,

- stormwater (i.e., the increase in impervious area), water, and sewage needs have been provided with the change in use from a bank to an AutoZone.
- 6 An amended drainage report has been submitted for review (pending HDR review).
 - 7 An amended traffic study must be prepared with the new proposed uses at Fairgrounds #1 and #2 (pending HDR review).
 - 8 Any required loading dock areas for the AutoZone should be shown on the plans, including truck turning movements. Parking space 19 may need to be removed to facilitate this loading/unloading area.
 - 9 There is not a sidewalk from the building to the dumpster.
 - 10 The doorway for the dumpster swings out into the traffic lane; this should be revised so that the doors do not swing out into traffic. The Applicant may want to remove parking space 7 so that the dumpsters can be relocated.
 - 11 There are two dumpsters shown, is one for recycling (e.g., cardboard) and one for waste – the purpose of the dumpsters should be better defined.
 - 12 The EAF, Page 6 #16 does not quantify the amount of solid waste to be generated on site, nor does it clarify if certain items will be recycled.
 - 13 The dumpsters on the site plan and those shown in the detail differ greatly; the site plan should be representative of the detail.
 - 14 The site plan shows less than the required parking spaces have been allocated for AutoZone, but an excess of parking spaces have been allocated for Price Chopper; it should be clarified why the spaces are being distributed in this manner.
 - 15 The sidewalk shown on this plan should be consistent with what was approved on the Fairgrounds original approval.
 - 16 Sidewalks or painted pavement for pedestrian traffic should be shown for parking spaces that are not immediately adjacent to the proposed Auto Zone.
 - 17 To better protect the existing edge of pavement, the Applicant may want to install a 10-ft “sacrificial pavement” surface between the existing pavement and the stabilized construction entranceway.
 - 18 Sheet 1, Note 14 refers to an approved SWPPP for Fairgrounds, but that SWPPP is now being updated and the new reference should be cited here.
 - 19 The new stormwater regulations that were recently incorporated into the Town Code must be met.
 - 20 The existing curb line that is being relocated should be called out as such (north of AutoZone).
 - 21 The existing guiderail in the legend on sheet 1 is not consistent with the line type shown for the guiderail on Sheet 2.
 - 22 Does any portion of the existing guiderail need to be removed and replaced to facilitate the construction associated with Auto Zone? If yes, notes should be added to the plan stating that the same guiderail shall be replaced; a detail should be referenced for consistency.
 - 23 Between the parking spaces 9 and 10, there is an open space and no sidewalk – the purposes of these areas should be called out.
 - 24 A proposed landscaping plan should be included within the plan set to show the screening that is being provided.
 - 25 As a conditional of final site plan approval for Fairgrounds #1, a three-ring binder with all color, texture, roofing samples, etc. shall be submitted and retained with the Building Department after final approval is granted.
 - 26 Payment of all fees.

The following comment submitted by the Conservation Board, dated 4/21/10:

Fairgrounds #1 (Amended) Site Plan Approval - Does this amendment require the SWPPP to be reviewed since it will affect site drainage? CB would like to see a planting schedule that will try to hide the building and parking area as much as possible.

The following comment submitted by the ARB:

Fairgrounds #1 (Amended) Site Plan Approval – None submitted.

1 Board to discuss SEQR.

Mr. Fink: The applicant has gone through a full EAF. There were many studies done previously. We had discussed issues of traffic, signage, lighting, etc... Some of these issues are contained within the comments that HDR has prepared. The primary traffic issue was the size of the facility. Traffic generation is based on the square footage of a particular building. When the traffic impact study was completed, it was done on the basis of a building that was not quite half as large as the one that is proposed now. We have asked the applicant to address whether or not there would be any increase that would necessitate any changes from the overall configuration of the building. The actual size and mass of the building is almost twice the size of the original one that was approved. We have asked the applicant to prepare for us line of sight profiles. Regarding zoning, that would be another issue. Since the Amended Findings Statement had been adopted, the zoning has changed in a couple of ways that has potential for impact on this which includes new signage, new lighting regulations, as well as a new local stormwater management requirement. We are going to ask the applicant to make sure that their plans are consistent with the zoning. Those are the issues.

2 Applicant to discuss project.

Dave Getz: Ted had just given a good introduction about the project. I don't have anything to add to that.

Mr. Astorino: Ok.

3 Fairgrounds #1 approved two buildings on tax lot 51-1-40.2: Price Chopper (56,038-sf) and a second building (bank) with 3,600-sf; for a total of 59,038-sf..

Mr. Astorino: We understand that. Ted has just pointed that out.

4 The Applicant should demonstrate that the increase in building square footage for Fairgrounds #1 will still be in conformance with the bulk requirements for this site (floor area ratio, lot coverage, and building height).
The lot coverage calculation should be clarified.

Dave Getz: We will clarify that. We are well within the 30% allowed.

- 5 This amended site plan shall demonstrate that the parking space requirements, stormwater (i.e., the increase in impervious area), water, and sewage needs have been provided with the change in use from a bank to an AutoZone.

Dave Getz: This comment also goes with comment #6. We had submitted drainage calculations.

Mr. Astorino: Yes. It is noted. Laura, are you still reviewing that?

Laura Barca: Yes. We have received the drainage report and the amended traffic study.

Mr. Astorino: Ok. You are still in the process of reviewing those.

Laura: Yes. We are in the process of reviewing both of those.

- 6 An amended drainage report has been submitted for review (pending HDR review).
7 An amended traffic study must be prepared with the new proposed uses at Fairgrounds #1 and #2 (pending HDR review).

Mr. Astorino: The drainage report and the amended traffic study are currently being reviewed by HDR.

- 8 Any required loading dock areas for the AutoZone should be shown on the plans, including truck turning movements. Parking space 19 may need to be removed to facilitate this loading/unloading area.

Mr. Astorino: At the Work Session, we discussed some of these regarding the parking spaces. You have plenty of room.

Dave Getz: Yes. If you like, we are aware of the rest of these comments tonight. If you want to go through each comment that would be fine, but otherwise we are aware of them. The next several comments relate to the parking spaces and the dumpster location, etc... We discussed these at the Work Session. We would have no problem with complying with those comments.

Mr. Astorino: We will list comments 9 through 17 for the record.

- 9 There is not a sidewalk from the building to the dumpster.
10 The doorway for the dumpster swings out into the traffic lane; this should be revised so that the doors do not swing out into traffic. The Applicant may want to remove parking space 7 so that the dumpsters can be relocated.
11 There are two dumpsters shown, is one for recycling (e.g., cardboard) and one for waste – the purpose of the dumpsters should be better defined.
12 The EAF, Page 6 #16 does not quantify the amount of solid waste to be generated on site, nor does it clarify if certain items will be recycled.
13 The dumpsters on the site plan and those shown in the detail differ greatly; the site plan should be representative of the detail.
14 The site plan shows less than the required parking spaces have been allocated for

- AutoZone, but an excess of parking spaces have been allocated for Price Chopper; it should be clarified why the spaces are being distributed in this manner.
- 15 The sidewalk shown on this plan should be consistent with what was approved on the Fairgrounds original approval.
- 16 Sidewalks or painted pavement for pedestrian traffic should be shown for parking spaces that are not immediately adjacent to the proposed Auto Zone.
- 17 To better protect the existing edge of pavement, the Applicant may want to install a 10-ft “sacrificial pavement” surface between the existing pavement and the stabilized construction entranceway.
- 18 Sheet 1, Note 14 refers to an approved SWPPP for Fairgrounds, but that SWPPP is now being updated and the new reference should be cited here.

Dave Getz: Regarding the SWPPP, we have submitted an updated report. I believe we need to file with the DEC at the appropriate time.

Laura Barca: If you look on Sheet 1, Note 14, there is a reference to the revision date of the SWPPP. That note needs to be updated.

Dave Getz: Ok. That is fine.

Laura Barca: It needs to be updated when the SWPPP is completed.

Dave Getz: Ok. That makes sense.

- 19 The new stormwater regulations that were recently incorporated into the Town Code must be met.

Dave Getz: We talked about that at the Work Session. We are adding approximately 3,000 square feet of impervious area with the proposed change. It might be slightly smaller than that with the reduced parking space alignment that we would do. We went through calculations for quantity and quality of stormwater runoff to show that the system that was originally designed for the project, that have been installed and is almost complete, are more than adequately covered for this minuscule increase in pavement. Is there something specific you are looking for?

Mr. Astorino: John, how does that work?

Mr. Bollenbach: It would have to be reviewed.

Mr. Astorino: We will have to review that with our Professionals.

Dave Getz: Ok. We are ok with the next set of comments #20 through #23.

Mr. Astorino: We will list comments 20 through 23 for the record.

- 20 The existing curb line that is being relocated should be called out as such (north of AutoZone).
- 21 The existing guiderail in the legend on sheet 1 is not consistent with the line type shown for the guiderail on Sheet 2.

- 22 Does any portion of the existing guiderail need to be removed and replaced to facilitate the construction associated with Auto Zone? If yes, notes should be added to the plan stating that the same guiderail shall be replaced; a detail should be referenced for consistency.
- 23 Between the parking spaces 9 and 10, there is an open space and no sidewalk – the purposes of these areas should be called out.
- 24 A proposed landscaping plan should be included within the plan set to show the screening that is being provided.

Dave Getz: I have brought with me tonight an architectural drawing to show to the Board.

Mr. Astorino: Is that the design?

Dave Getz: This was shown at the meeting we had with the ARB.

Laura Barca: We received a letter from the ARB, dated 3/15/10 about that.

Mr. Singer: We want to see any revisions before we approve anything.

Mr. Astorino: Could you get us copies of that drawing and submit that to us for the record.

Dave Getz: Yes.

Mr. Kowal: Would there be any screening between Route 94 and the back of this building?

Dave Getz: We are going to be consistent with the approved site plan, which did not propose any plantings between Route 94 and the pad site. Some existing large trees will screen it from certain angles. At other angles, it would be more open.

Mr. Bollenbach: You said that the original approval of the site plan did not show it. There is a specific condition. Take a look at the sheet with the landscaping design. Ted, do you have that particular comment or note that states after the parking lot is installed there should be a site inspection by the Town Planner to determine if there would be a need for additional screening?

Mr. Astorino: You would be doing a line of sight for this. Is that correct?

Dave Getz: Yes.

Mr. Astorino: There is a provision for that. Ted, I don't know if you had an opportunity to go out there. That would be something that you would have to take a look at.

Mr. Fink: I have gone out to the site. That was why I was recommending that a

landscape plan be prepared. There is a fairly broad area along Route 94 where there is no existing screening and where additional landscaping screening would be appropriate.

Adrian Goddard: We went through with the ARB designing this beautiful building elevation. The whole point is to make the appearance of Route 94 attractive as far as the building is concerned. Why would we then think about hiding it?

Mr. Astorino: I don't think you want to hide it. In my mind, I think the screening is there to break it up. It would be nothing to a point like a wall of trees.

Mr. Kowal: We want to break up the appearance.

Mr. McConnell: We want to soften the appearance.

Mr. Singer: The applicant is implying to the changes they had done to the side of the building that faces Route 94 is appealing. It is not appealing. It is terrible. I want them to put more landscaping there.

Mr. Astorino: That would be your opinion. I think the applicant's point is that they are saying that they are requested to do xyz to make this type of building. If that is what it is, Russ, correct me if I am wrong. Your point is saying let us put in some trees, screening, and plantings to soften the line.

Mr. Kowal: Yes.

Mr. Astorino: You won't be blocking it entirely. You won't be putting a wall up.

Mr. McConnell: I actually think where the screening would be most effective, as Ted had indicated, would be north and south of it, not at a 90 degree angle looking at it. Just break up the appearance.

Mr. Astorino: Right. It is not like you are putting up a wall. It is not like one of those walls that they have on the LIE. You don't want one of them.

Adrian Goddard: Coming from the Shop-Rite side, you can't see this building anywhere at all. It was one of the reasons that we lost the bank deal was because this building was so well screened from that side.

Mr. Singer: Coming from the Village, you could see it very clearly.

Mr. Fink: There are other benefits to landscaping. It is not just screening. There are environmental benefits as well in terms of cooling the large asphalt areas, etc...

Mr. Astorino: It does give a break. Russ's point was very valid on not doing a full wall but just a break in it.

Mr. Fink: Right.

- 25 As a conditional of final site plan approval for Fairgrounds #1, a three-ring binder with all color, texture, roofing samples, etc. shall be submitted and retained with the Building Department after final approval is granted.
- 26 Payment of all fees.

Dave Getz: Yes. We are anxious to be on the road for approval. Could you give us an idea on what we need to do? We know we need to respond to the comments. We are hoping to move things along as quickly as we can.

Mr. Astorino: John or Ted, could you explain to them the protocol?

Mr. Bollenbach: There are still 4 items outstanding that Ted had pointed out. We are still waiting for a drainage report, traffic report, line-of-sight, and for some other compliance issues with the Code that either haven't been received or reviewed by the Professionals yet.

Mr. Astorino: Have you updated the SWPPP?

Dave Getz: Yes.

Mr. Astorino: That is in the Professionals possession. Laura, do you have the traffic report?

Laura Barca: I have 2 of the 4 reports.

Mr. Astorino: Ok.

Dave Getz: One of the comments relates to traffic asked about Phase 2, which is not on the agenda tonight. There was a letter provided by the Traffic Engineer, John Collins, dated 2/18/09. He addressed the Phase 2 proposed revisions. I am just submitting more copies of those John Collins letters, dated 2/18/09 for the record.

Mr. McConnell: Is this Phase 2 as a Car Dealership or a mixed used?

Dave Getz: It is not for a Car Dealership. It is for a mixed use.

Mr. McConnell: Ok.

Mr. Bollenbach: It would be up to the Board to set it for a public hearing. But, you will not have a public hearing until everything has been reviewed.

Mr. Astorino: We could set it for the next available agenda.

Mr. Bollenbach: But, that doesn't necessarily mean at the next meeting to have a public hearing. It would be after everything has been reviewed.

Mr. Astorino: One thing you should do regarding that letter you have from the ARB as Carl had pointed out, if there were some changes, have they been settled? Let us see it.

Dave Getz: Is a public hearing required?

Mr. Astorino: I believe so. John, is that correct? We have a comment from the Conservation Board, dated 4/21/10. We are not hiding the building. We are screening it. We discussed that already.

Adrian Goddard: Is a public hearing required for an action this small?

Mr. Bollenbach: It would be up to the Board. We haven't received all the information yet. I was just suggesting that you could set it for a public hearing as a courtesy. If the applicant doesn't want to do that now, we don't have to do it now.

Dave Getz: Adrian's question is if a public hearing is required?

Mr. Bollenbach: It would be up to the Board's discretion as to the nature of the impact.

Mr. McConnell: I guess I am not clear whether I would characterize it in the same way that the applicant has. He characterizes it as a minor. I need to see the difference in the traffic study and the difference in the other parts of it so that I would have the ability to make that evaluation rather than relying upon the applicant's characterization of it.

Adrian Goddard: The traffic study shows a reduction in traffic. The drainage study shows an increase less than what was said.

Mr. McConnell: If that is the case, and you were really concerned about that, it would have behooved you to make that argument today with charts and etc...so that we would have had that information in front of us. What we have instead is information in front of our professionals who haven't yet reviewed it. I am not in the position where I could characterize it as minor or not minor.

Adrian Goddard: Unless you believe that I am misrepresenting the conclusion.

Mr. McConnell: I choose not to believe or disbelieve you.

Adrian Goddard: Ok.

Mr. McConnell: I take it at face value. I would not be doing my job if I simply took it as a minor change based upon your characterization.

Mr. Astorino: I guess we could go one or two ways here. I will leave it up to the applicant. At this point, until we get confirmation from our professionals and get the line-of-sight in, we could either set it for a public hearing for the next available agenda or just sit on it. If it is a minor, then we would make a determination. No matter which way, you would be covering your basis. If not, then that would be up to you.

Adrian Goddard: If you think that would be the more practical way, then fine.

Mr. Kowal makes a motion to set the Fairgrounds #1 (Amended) Site Plan Application for a Public Hearing at the next available agenda.

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

Dave Getz: Thank you.

Adrian Goddard: Thank you.

Donald Fisk

Application for Site Plan Approval for the construction and use of renovations to an existing building, new well, replacement of sewage disposal system, located within “A Designated Protection Area” of Greenwood Lake, situated on tax parcel S 77 B 1 L 23; project located on the western side of Shore Avenue (61 Shore Avenue) 1300 feet north of Forest Avenue, in the SM zone, of the Town of Warwick.

Representing the applicant: Dave Getz from Lehman & Getz Engineering

The following review comments submitted by HDR:

- 1 Planning Board to discuss SEQRA.
- 2 Applicant to discuss project.
- 3 The notary republic who signed form is from New Jersey; the notary needs to be registered in New York.
- 4 Upon referral from the Building Department, the Applicant filed an application with the ZBA in early February to request a variance from the front setback; the variance is necessary because of the proposed expansion of the footprint. ZBA variance verbiage, if granted, will need to be placed on the drawing.
- 5 Applicant to provide copies of Home Owner’s Association road maintenance agreement.
- 6 Site Plan Checklist #21 – locations of uses and outlines of structures drawn to scale on and within 100-ft of the property boundary – is not shown on the drawing.
Sheet 2 of 4 shows the location of existing adjacent structures; the uses of these structures are not shown.
- 7 Site Plan Checklist #23 – architectural plans – have not been submitted.
A rendering for the house has been provided to the planning board; this rendering will be sent to the Architectural Review Board (ARB) for consideration.
- 8 If the parking areas are proposed over the top of any part of the septic system, OCDH would have to accept this condition.
- 9 The Planning Board will likely want to conduct a site inspection when this project moves forward.
- 11 Sheet 3, Drilled Well Detail, Note 15: Well casing shall be extended to 2-ft above the 100-yr flood plain elevation; the 100-yr flood plain elevation is not shown.
This project is already been reviewed by OCDOH, we recommend that our review letter be sent to OCDOH to facilitate its review of this project.
- 12 Stormwater that previously flowed by sheet flow across the property will now encounter the proposed retaining wall, travel along it and likely flow in a northerly direction to the adjacent lot and possibly across his septic system area. The Applicant may have to move the raised bed system away from the property line to allow for properly drainage on his own lot.
Sheet 2 of 4 shows an existing roadside swale, but a site inspection would be in order to demonstrate how the stormwater is being managed.
- 13 A dye test will need to be conducted after the new septic system has been installed.
- 14 Surveyor to certify that iron rods have been set at all property corners.
- 15 Payment of all fees.
- 16 A wall design signed and sealed by a PE will be submitted to the Building Department for approval prior to obtaining a building permit (see note, Sheet 1 of 4, Modular Retaining Wall detail).

The following comment submitted by the Conservation Board, dated 4/21/10:

Donald Fisk - CB has concerns that the septic is too close to the well. PB should schedule a site visit. CB also recommends that this be treated as a year round occupied dwelling.

The following comment submitted by the ARB:

Donald Fisk – None submitted.

1 Planning Board to discuss SEQRA.

Mr. Fink: The applicant has provided the Planning Board with a short EAF. It is an Unlisted Action. The ZBA is an involved Agency. They have already conducted their own SEQR review. The Planning Board could declare itself Lead Agency for their review of the proposed site plan.

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: Fisk Site Plan

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application by Donald Fisk for a \pm 0.11 acre parcel of land located at 61 Shore Avenue, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 2/3/10 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 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.

2 Applicant to discuss project.

Dave Getz: The project site is a small lot that fronts on Greenwood Lake and Shore Avenue which is a private road. The property and the dwelling has been in the applicant's family since the 1930's. He proposes to drill a well for potable water. The house is a seasonal house. He wants to keep it as a seasonal house at this point. He wants to have a water supply. We propose a new well. He proposes an addition to the building, not to increase the number of bedrooms, but to slightly increase the footprint and update the house. He also proposes to put in a new septic system. Because of the lack of area, soil conditions, and the proximity to the lake, the Town referred the project to the OCHD for the review of the well and septic. We first submitted some information to the Planning Board back in the fall. But, we requested to hold off coming before you until we went through the OCHD review to a certain stage. To us, that was the most critical issue on how the septic system would be worked out. At this point, we have a letter of comments from the OCHD that basically say that they are ok with the plan as shown. They have stated to go ahead to build what we need to and place the fill that is needed. Once the fill is in place, then the OCHD would test it with us again. Placing that fill would be a disturbance within 100 feet of Greenwood Lake. This project requires Planning Board approval in order for us to do that. That is the step we are at now.

Mr. Astorino: Ok.

3 The notary republic who signed form is from New Jersey; the notary needs to be registered in New York.

Dave Getz: Ok. We will get that straightened out.

4 Upon referral from the Building Department, the Applicant filed an application with the ZBA in early February to request a variance from the front setback; the variance is necessary because of the proposed expansion of the footprint. ZBA variance verbiage, if granted, will need to be placed on the drawing.

Dave Getz: ZBA has granted the variance. The variance verbiage will be placed on the plan.

- 5 Applicant to provide copies of Home Owner's Association road maintenance agreement.

Dave Getz: That is a sticky issue in this case. Bob Krahulik faxed me 16 pages today of various documents that relate to a court case and letters back and forth regarding Mr. Fisk's participation in the HOA. Rather than submitting it to the Board, would it be ok that we give that to John Bollenbach?

Mr. Bollenbach: Yes.

Dave Getz: The upshot of it the way I understand it is that Mr. Fisk had won a court case back 30 years ago. It was stated that he wasn't required to pay certain dues because it was just a seasonal home. However, he had offered to pay a portion of it. They ignored his offer. That was how Bob had explained it to me. We will get the information to John Bollenbach for his review.

Mr. McConnell: Mr. Chairman, may I ask a question?

Mr. Astorino: Yes.

Mr. McConnell: Mr. Getz has made the distinction twice now about a seasonal home versus a non-seasonal home. If the applicant goes through with what he is proposing to go through, what would be the functional difference between this home and a seasonal home?

Dave Getz: If he builds what he proposes, it could be either one.

Mr. McConnell: Then, you are talking about how he would use it and not any limitation in the physical sense.

Dave Getz: Right.

Mr. McConnell: I am trying to understand why you are raising that distinction to us at all. You are going to make it a non-seasonal or a full time home.

Dave Getz: No. He is proposing not to do that.

Mr. McConnell: He is proposing not to use it that way. He is proposing to make it into a full time home.

Dave Getz: Ok. I think I raised it initially because when we went to the OCHD, Ed Sims had said that when we described the project to him he was going to have Mr. Schlifer sit in on this one. Mr. Schlifer had signed things back in the 1950's. He has been at the OCHD ever since. He said it's the first time he could remember seeing an application that did not have potable water on a property like this. That was why we had him sit in on the conversation. I raised that issue. It is unusual for someone to be proposing to drill a well for the first time for a structure that has been there for many years.

Mr. McConnell: Right.

Dave Getz: We talked to Zen at the time with John Batz and John Bollenbach about the distinction between seasonal and permanent. I believe from the Town's point of view and the County's point of view there is no difference in water supply or sewage disposal.

- 6 Site Plan Checklist #21 – locations of uses and outlines of structures drawn to scale on and within 100-ft of the property boundary – is not shown on the drawing. Sheet 2 of 4 shows the location of existing adjacent structures; the uses of these structures are not shown.

Dave Getz: Will clarify.

- 7 Site Plan Checklist #23 – architectural plans – have not been submitted. A rendering for the house has been provided to the planning board; this rendering will be sent to the Architectural Review Board (ARB) for consideration.

Dave Getz: We also have a floor plan that we could submit that shows the proposed layout.

Mr. Astorino: Ok.

- 8 If the parking areas are proposed over the top of any part of the septic system, OCDH would have to accept this condition.

Dave Getz: We understand that. It is designed to be suitable for that.

- 9 The Planning Board will likely want to conduct a site inspection when this project moves forward.

Dave Getz: Mr. Fisk couldn't be here tonight. He is welcome to have you come as soon as possible.

Mr. Astorino: What would be a good time for the Board?

Mr. Singer: We have another Greenwood Lake application coming up next on the agenda tonight. Why don't we wait until after that one so we could set both site visits at the same time?

Mr. Astorino: Ok. We will set a site visit date after we do the next Greenwood Lake application tonight.

- 11 Sheet 3, Drilled Well Detail, Note 15: Well casing shall be extended to 2-ft above the 100-yr flood plain elevation; the 100-yr flood plain elevation is not shown. This project is already been reviewed by OCDOH, we recommend that our review letter be sent to OCDOH to facilitate its review of this project.

Dave Getz: Will do.

- 12 Stormwater that previously flowed by sheet flow across the property will now encounter the proposed retaining wall, travel along it and likely flow in a northerly direction to the adjacent lot and possibly across his septic system area. The Applicant may have to move the raised bed system away from the property line to allow for properly drainage on his own lot.

Sheet 2 of 4 shows an existing roadside swale, but a site inspection would be in order to demonstrate how the stormwater is being managed.

Dave Getz: We could look at that at the site visit.

Laura Barca: Yes.

- 13 A dye test will need to be conducted after the new septic system has been installed.

Dave Getz: Ok.

- 14 Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: Ok.

- 15 Payment of all fees.

Dave Getz: Yes.

- 16 A wall design signed and sealed by a PE will be submitted to the Building Department for approval prior to obtaining a building permit (see note, Sheet 1 of 4, Modular Retaining Wall detail).

Dave Getz: Ok.

Mr. Astorino: Let us get through the next Greenwood Lake application tonight. We will then schedule a site visit date that would accommodate both applications.

Dave Getz: Ok.

Mr. Bollenbach: Laura, regarding the retaining wall, you might want to check the setback and the height requirements on it as well.

Laura Barca: Dave, how tall is that retaining wall?

Dave Getz: It is less than 4 feet.

Mr. Bollenbach: Ok.

Mr. Astorino: We received a comment from the Conservation Board, dated 4/21/10 for the record.

Dave Getz: Thank you.

Marianne Manzollilo

Application for Site Plan Approval for the construction and use of a swimming pool and associated cabana and retaining walls which are located in “*A Sensitive Area*” of Greenwood Lake, situated on tax parcels S 73 B 5 L 5; project located on the western side of Brook Trail (159 Brook Trail) 30 feet west of the dwelling, in the SM zone, of the Town of Warwick.

Representing the applicant: Gerry Gardner, Engineer.

The following review comments submitted by HDR:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. We recommend a site inspection with the design engineer to show what is being proposed.
4. The entire topography of the site and adjacent properties is not shown.
5. The vicinity map is not legible.
6. §164-41.A(1)(b) states that accessory structures must be 5-ft from the property line.
7. §164-41C.(4)(f) states that fences or walls over 4-ft must comply with the building setback requirements (see §164-41.A(1)(b)).
8. A dye test will need to be conducted prior to holding a public hearing on this application.
9. The Applicant should provide photographs of the existing structure, the surrounding structures, and Greenwood Lake (i.e., photos to and from the property).
10. The site features included in the percent impervious area calculations under proposed conditions must be identified.
11. The surface covering (i.e., visual appearance) of the two 4-Ft tall and one 10-ft retaining walls need to be shown.
12. Renderings/Architectural drawings should be submitted for the proposed 10-ft by 12-ft shed for ARB review.
13. Renderings/Architectural drawings must be submitted for the proposed 17-ft by 20-ft cabana for ARB review.
14. The 10-ft retaining wall will require a structural design.
15. The upper 4-ft retaining wall is placed on 4-ft of fill; it is preferable that this retaining wall be tied into existing grade with a footing and provide specification for gradation and compaction of fill.
16. There is no detail for the 5-ft fence that is proposed on upper 4-ft retaining wall. The detail shall be shown in coordination with the retaining to show how the fence and wall will be constructed.
17. The mechanism for diverting the flow equally into the two separate 3-ft by 3-ft seepage pits should be shown.
18. Existing contours are not shown for the entire property, nor are they shown at least 50-ft off site.
19. The locations and uses of structures located within 100-ft of the site have not been shown.
20. Parking spaces have not been shown on the site plan.

21. Is any landscaping being proposed; there does not appear to be any shown on the plan.
22. Is any new outdoor lighting being proposed; there does not appear to be any shown on the plan.
23. Mailings need to be sent to school, ambulance, fire, and police. Certified mailing receipts need to be provided to the planning board secretary.
24. The means to maintain the retaining walls, septic system, and the rear yard should be defined. It may be beneficial to reduce the width of the proposed infrastructure to facilitate a maintenance vehicle traversing into the backyard, as needed.
25. The declaration information for the Agricultural, Aquifer, and Traditional Neighborhood Overlay Notes will need to be shown on the drawing.
26. Surveyor to certify that iron rods have been set at all property corners.
27. Payment of all fees.

The following comment submitted by the Conservation Board, dated 4/21/10:

Marianne Manzolillo - Where is the septic system? CB recommends a dye test. CB is also concerned about the steep slope. PB should schedule a site visit.

The following comment submitted by the ARB:

Marianne Manzolillo – None submitted.

1. Board to discuss SEQR.

Mr. Fink: This is an Unlisted Action. The Planning Board is reviewing the application with a short EAF. There are no other involved agencies. The Planning Board could go ahead and declare Lead Agency.

Mr. McConnell makes a motion for Lead Agency.

Seconded by Mr. Kowal. 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: Manzolillo Site Plan

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application by Marianne Manzolillo for a \pm 0.46 acre parcel of land located at 159 Brook Trail, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 3/29/10 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.

2. Applicant to discuss project.

Gerry Gardner: Because of the funny nature that the way this plan came to this Board, I talked to John Batz before we prepared this plan. He didn't know if it should go to the Planning Board at all. That is why the plan is limited to the property. That is why we don't have the 100-foot property surrounding buildings and the contours on the plans. John Batz said that he would review the plan then decide if it would need to go before the Planning Board or not. He made that decision. We haven't done anything to the plan except go to the Work Session. I don't want you to think that I have done a half job here. We had done what John had told us to do. The intent is to build a pool on the space behind the dwelling with retaining walls associated to bring the pool level up to approximately to the level of the backyard. I except there will be a site visit. We have talked about that last week. The property slopes gently up to about 50 feet behind the building. Then, it slopes steeply down. We require to have a couple of retaining walls to bring that last 15 to 20 feet up to the level to the rest of the yard for the pool. That is the whole project. There is lighting and landscaping that was mentioned in the list. We have added them to the plan. I suspect we would go through the items on the list one at a time tonight.

Mr. Astorino: Laura, is there anything that sticks out to you here? It sounds like we would need a site inspection to see what is going on. These plans will have

to be updated. Do any Board members or Professionals have any questions or comments?

Laura Barca: There was one update since the Work Session. The retaining walls that are 4 feet or taller according to the Town Code would need a variance.

Gerry Gardner: Right. I didn't understand where that came from. But, I do understand it now. In comment #6, it states that accessory structures must be 5-feet from the property line. They are in our case.

Laura Barca: That leads into comment #7.

Gerry Gardner: We are not in violation of #6. I just wanted to make sure.

Mr. Bollenbach: When it is a wall, it is deemed to be an accessory structure.

Gerry Gardner: Is that accurate?

Laura Barca: Yes.

Gerry Gardner: Are we saying that the walls only need to be 5 feet from the property line.

Mr. Bollenbach: Correct.

Laura Barca: Yes.

Gerry Gardner: We could do that. Comment #20 in regards to parking spaces, do I have to identify the number of spaces? That is private property. It is a driveway. I am not clear on what that means.

Laura Barca: According to the Town Code, you are required to show two parking spaces.

Gerry Gardner: There is a lot of area here to show it.

Laura Barca: Right.

Mr. Bollenbach: Just show it on the plan where those parking spaces would be. Just show (2) 9x18 parking spaces.

Gerry Gardner: Ok. All of the other comments, we have discussed before. I already have made the changes to them. I apologize about the retaining wall design. I guess you didn't receive it.

Laura Barca: I did not get it.

Gerry Gardner: I have copies of it. I will give it to you tonight.

Laura Barca: Ok.

Gerry Gardner: I guess I will be responding to the rest of these with another letter and give everything to you in one package.

Connie Sardo: You will be making a re-submittal anyway. Why don't you just submit everything at once so that we all would have it.

Gerry Gardner: Ok.

Connie Sardo: We will need 15 sets of plans and copy of the structural of the retaining wall.

Gerry Gardner: Ok.

Laura Barca: Ok.

Mr. Singer: How tall would the retaining wall be? How much fill would you be putting in there?

Gerry Gardner: It will be a big wall. The fill and everything is calculated on the drawing. The volume of the fill and the height of the wall are calculated on the drawing. The real issue is that from the lakeside it would be about 10 feet high maybe a little higher. The main wall would be about 8 feet. There is a 4-foot tall wall below it.

Mr. Singer: Do we have a restriction on how much they could fill it?

Mr. Astorino: I don't think so. We will definitely need to do a site visit. We want to see it. We will list Comments 1 through 27 for the record.

3. We recommend a site inspection with the design engineer to show what is being proposed.
4. The entire topography of the site and adjacent properties is not shown.
5. The vicinity map is not legible.
6. §164-41.A(1)(b) states that accessory structures must be 5-ft from the property line.
7. §164-41C.(4)(f) states that fences or walls over 4-ft must comply with the building setback requirements (see §164-41.A(1)(b).
8. A dye test will need to be conducted prior to holding a public hearing on this application.
9. The Applicant should provide photographs of the existing structure, the surrounding structures, and Greenwood Lake (i.e., photos to and from the property).
10. The site features included in the percent impervious area calculations under proposed conditions must be identified.
11. The surface covering (i.e., visual appearance) of the two 4-Ft tall and one 10-ft retaining walls need to be shown.

12. Renderings/Architectural drawings should be submitted for the proposed 10-ft by 12-ft shed for ARB review.
13. Renderings/Architectural drawings must be submitted for the proposed 17-ft by 20-ft cabana for ARB review.
14. The 10-ft retaining wall will require a structural design.
15. The upper 4-ft retaining wall is placed on 4-ft of fill; it is preferable that this retaining wall be tied into existing grade with a footing and provide specification for gradation and compaction of fill.
16. There is no detail for the 5-ft fence that is proposed on upper 4-ft retaining wall. The detail shall be shown in coordination with the retaining to show how the fence and wall will be constructed.
17. The mechanism for diverting the flow equally into the two separate 3-ft by 3-ft seepage pits should be shown.
18. Existing contours are not shown for the entire property, nor are they shown at least 50-ft off site.
19. The locations and uses of structures located within 100-ft of the site have not been shown.
20. Parking spaces have not been shown on the site plan.
21. Is any landscaping being proposed; there does not appear to be any shown on the plan.
22. Is any new outdoor lighting being proposed; there does not appear to be any shown on the plan.
23. Mailings need to be sent to school, ambulance, fire, and police. Certified mailing receipts need to be provided to the planning board secretary.
24. The means to maintain the retaining walls, septic system, and the rear yard should be defined. It may be beneficial to reduce the width of the proposed infrastructure to facilitate a maintenance vehicle traversing into the backyard, as needed.
25. The declaration information for the Agricultural, Aquifer, and Traditional Neighborhood Overlay Notes will need to be shown on the drawing.
26. Surveyor to certify that iron rods have been set at all property corners.
27. Payment of all fees.

Mr. Bollenbach: Is there a comment that relates to lot coverage? Perhaps, Gerry could provide Laura with a calculation for that.

Laura Barca: In comment #10, it states that the site features included in the percent impervious area calculations under proposed conditions must be identified.

Gerry Gardner: Does the top of the wall count as an impervious area?

Mr. Bollenbach: Yes.

Laura Barca: If it counts as an accessory structure?

Mr. Astorino: I am sure it would.

Gerry Gardner: Ok. I don't think we counted it. It is narrow.

Mr. Bollenbach: There is a little difference. The maximum is a 30% lot coverage. It is defined a little differently. It is not necessarily all impervious surfaces. It is actually defined as lot coverage. Certain things are and certain things are not involved.

Gerry Gardner: Right. We would assume tonight that the top of the wall is.

Laura Barca: Yes.

Mr. Astorino: Let us schedule the Manzolillo and the Fisk applications for a site visit.

Mr. McConnell: If we were to try to do both of them before one of our meetings, since they are on opposite sides of the lake, we could have a problem.

Mr. Astorino: Right. Not only that, East Shore Road will also be closed.

Mr. McConnell: I think we will need to do these as 2 separate site visits.

Mr. Astorino: I agree.

Connie Sardo: There is no Work Session on Monday, 4/26/10. But, would the Board want to do both site visits that night?

Mr. Astorino: Would the Board want to do the site visits on Monday night?

Mr. McConnell: Yes.

Mr. Bollenbach: Ted, we will take pictures for you.

Mr. Fink: Ok.

Mr. Astorino: Ok. We will schedule the Fisk application for a site visit for Monday, 4/26/10 @ 5:30 p.m. to meet at 61 Shore Road. Then, immediately after that we will go to Manzolillo's site on Monday, 4/26/10 @ 6:30 p.m. to meet at 159 Brook Trail.

Gerry Gardner: Ok. Thank you.

Normajeau Fusco Subdivision

Application for Final Approval of a proposed 12-Lot + 1-Affordable Home cluster subdivision and Special Use Permit for the Affordable Home, entitled, ***Fusco Subdivision***, situated on tax parcel S 18 B 1 L 31.2; parcel located on the southern side of Taylor Road with Jessup Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. Preliminary Approval was granted on 9/2/09.

Representing the applicant: Dave Higgins from Lanc & Tully Engineering. Ira Emmanuel, Attorney.

The following review comments submitted by HDR:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. A technical meeting will be held to determine the status of the overall review at this time (items for HDR to review, status of SWPPP, constructability review, construction details, etc.). Any additional comments will be included in the next HDR review letter.
4. Lot 1 will retain the open space, but with deed restrictions; this verbiage must be agreed upon and placed on the plans by declaration.
5. The design/details for the wetland crossings must be shown in the drawings.
6. The aluminum box culverts should be replaced with a precast concrete modular bridge.
7. The wetland crossings for lots 12 and 13 have been modified and will be reviewed compared to what was presented in the plans that received preliminary approval.
8. Any span greater than 20-ft is considered a bridge; however this shared driveway is proposed to remain in private ownership and not be dedicated to the Town, so the maintenance concerns and costs must be included in the shared driveway agreement.
9. Emergency services (ambulance, fire, and police) will need to review the reduced width of the wetland crossings; certified mailing receipts submitted to the planning board secretary.
10. Are guiderails being proposed at the wetland crossings?
11. The declaration information for the Ridgeline and Agricultural Notes will need to be shown on the drawing.
12. A legal description and declaration for the dedication strip to the Town for highway purposes will need to be submitted.
13. Surveyor to certify that iron rods have been set at all property corners.
14. Payment of recreation fees.
15. Payment of all fees.

The following comment submitted by the Conservation Board, dated 4/21/10:

Normajeau Fusco Subdivision - The CB would like to see the open space preserved in a matter that goes beyond a deed restriction. CB requests applicant to investigate the adoption of a conservation easement with an interested land trust. This would provide better long term protection and may afford tax benefits as well. CB would also like to ensure that no further development occurs on this site and recommends that the PB so condition subdivision approval. Leaving further subdivision approval to OCHD is an inappropriate abdication of local rule. Further subdivision must come before the PB anyway.

The following comment submitted by the ARB:

Normajeau Fusco Subdivision – None submitted.

1. Board to discuss SEQR.

Mr. Fink: On this application, the Planning Board used the extended EAF. We reviewed that. There were a number of environmental studies done. The Planning Board concluded that the issuance of a Negative Declaration would be appropriate. The Planning Board had done that prior to the preliminary approval. Any time you have a stage development process like this with preliminary and final, if there are any changes between the time that the Negative Declaration was issued and we received the final plans, if there were any changes that would result in a potential adverse impact, then there would be a need for an additional study under SEQR. Otherwise, if the final plan is in substantial agreement with the preliminary plan, then normally no further SEQR analysis would be required.

Mr. Astorino: Thank you.

2. Applicant to discuss project.

Dave Higgins: The only changes that occurred between preliminary and final was that we went to the OCHD. We got all of the soil tests done. The Health Department approved the plans. The only change that was involved was concerning the driveways for lots 2 and 3. We joined those two lots as a common driveway. That was something the Planning Board requested earlier on in the project. We joined them as a common driveway to eliminate a wetland crossing. We are also now proposing to span all of the wetland crossings so that we would have zero wetland disturbances. The plan that had preliminary approval had some wetland disturbance shown. Now, we no longer have any wetland impacts.

3. A technical meeting will be held to determine the status of the overall review at this time (items for HDR to review, status of SWPPP, constructability review, construction details, etc.). Any additional comments will be included in the next HDR review letter.

Mr. Astorino: We had that discussion this evening.

Dave Higgins: We had a meeting. We went over the remaining comments and the changes that we had made to the plans.

Mr. Astorino: We talked about the aluminum box culvert. Since this will be a common driveway, they will go with concrete. That is what the Zoning Code will allow. As far as the SWPPP, landscape design, and species, Ted or Laura will work that out by reviewing that.

Dave Higgins: We talked about the conservation notes and monumentation.

Mr. Astorino: Yes. We talked about stone cairn on the open space. I think everything is up to speed.

4. Lot 1 will retain the open space, but with deed restrictions; this verbiage must be agreed upon and placed on the plans by declaration.

Ira Emmanuel: Right There will be a HOA which would have the benefit of any restrictions and being in position to enforce them.

5. The design/details for the wetland crossings must be shown in the drawings.

Dave Higgins: Will do.

6. The aluminum box culverts should be replaced with a precast concrete modular bridge.

Dave Higgins: Yes.

7. The wetland crossings for lots 12 and 13 have been modified and will be reviewed compared to what was presented in the plans that received preliminary approval.

Mr. Astorino: That would be Laura's deal.

8. Any span greater than 20-ft is considered a bridge; however this shared driveway is proposed to remain in private ownership and not be dedicated to the Town, so the maintenance concerns and costs must be included in the shared driveway agreement.

Dave Higgins: Ok.

9. Emergency services (ambulance, fire, and police) will need to review the reduced width of the wetland crossings; certified mailing receipts submitted to the planning board secretary.

Dave Higgins: As part of the application for final approval, we had to do certify mailings to the emergency services and schools. I will get copies of the certified mailing receipts to Connie.

Connie Sardo: We already have received some responses from the Police and the School District.

Dave Higgins: Yes.

10. Are guiderails being proposed at the wetland crossings?

Dave Higgins: We will work out those details when we show the construction details for the concrete crossings.

Laura Barca: Ok.

11. The declaration information for the Ridgeline and Agricultural Notes will need to be shown on the drawing.

Dave Higgins: Will do.

12. A legal description and declaration for the dedication strip to the Town for highway purposes will need to be submitted.

Ira Emmanuel: Right.

13. Surveyor to certify that iron rods have been set at all property corners.

Mr. Bollenbach: It should state iron rods or stone cairns.

Mr. Astorino: Right.

14. Payment of recreation fees.

Ira Emmanuel: Yes.

15. Payment of all fees.

Ira Emmanuel: Yes.

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

Mr. Bollenbach: Dave, regarding the Private Road sub-base design, do you want to explain that a little?

Dave Higgins: The Town Code requires soil testing for the sub-grade of a road. It is to make sure that the pavement design is adequate. We actually contracted with it being tested. They will be doing soil tests within the next couple of weeks. Once we have those soil test results and the modifications to the paving design, we will provide that to you.

Mr. Bollenbach: I was looking at §164-46(j)(100), which describes the Affordable Housing. Is there a map note on the plan to that effect? You might want to take a look at that. It alerts the developer or the perspective purchaser of this whole procedure regarding the affordable housing on how it is done, built, situated, and offered.

Ira Emmanuel: I don't see one on here. It would be a good idea to have one.

Mr. Fink: John, we had talked about that at the Work Session. Connie, we have examples of the Marketing Plan.

Connie Sardo: Yes. We have that from the Foxwood Estates subdivision.

Mr. Fink: Yes.

Mr. Bollenbach: Provide the applicant with a copy of that Marketing Plan as an example. Go through that section. It would require Town Board approval. We already have one that is in effect. It would be easy to replicate.

Ira Emmanuel: Right. I will call you during the week to talk about that and the other things that we discussed tonight.

Connie Sardo: Dave, I will send you the Foxwood Estates Marketing Plan.

Dave Higgins: Ok. Thank you.

Mr. Astorino: Does the applicant request to be set for a Final Public Hearing?

Ira Emmanuel: Yes.

Dave Higgins: Yes.

Mr. Singer makes a motion to set the Normajejan Fusco application for a Final Public Hearing at the next available agenda.

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

Mr. McConnell: We have a comment from the Conservation Board, dated 4/21/10 for the record.

Mr. Astorino: Regarding the CB comment about further subdivisions, in the past 8 years since I have been on this Planning Board, once you do a cluster subdivision there is no further subdivision. That has not changed.

Laura Barca: There is a note on the plan that reflects that.

Mr. Fink: I did see on the plan that there were two conflicting notes. One note did say no further subdivision approval. The other note stated no subdivision approval without OCHD approval.

Mr. Bollenbach: That is one of the requirements of the OCHD. No further subdivision could occur without OCHD approval.

Mr. Astorino: They don't supersede our Code.

Mr. Bollenbach: No. It is a note that OCHD requires.

Mr. McConnell: They are not saying that subdivision is possible. They are just saying "if it were possible".

Mr. Astorino: But, our Code strictly prohibits that.

Mr. McConnell: Right.

Mr. Astorino: As far as the CB comment on deed restrictions, that is already part of the mechanism in the Code.

Mr. Bollenbach: Just to go one step further here, if the applicant does want to offer it to a Land Trust, they are more than welcome to. But, it is proposed to be retained for agricultural purposes.

Mr. Astorino: Ok

Other Considerations:

1. **Ludmerer-Masker Fruit Farms** – Letter from Kirk Rother, dated 3/29/10 addressed to the Planning Board in regards to the Ludmerer/Masker Fruit Farms Subdivision – requesting ***“Re-Approval”*** of Amended Final Approval of a proposed 6-Lot cluster subdivision, situated on tax parcels S 53 B 1 L 20 & 35; parcels located on the eastern side of Brady Road, closest intersection with Cascade Road, in the MT/CO zones, of the Town of Warwick. Amended Final Approval was granted on, 4/15/09. The 6-Month Extension was granted on 10/7/09 became effective on 10/15/09. *The applicant is still in the process of satisfying the conditions of final approval. The applicant’s attorney has prepared drafts of documents to be submitted to the Planning Board attorney for review.* “Re-Approval” of Amended Final Approval becomes effective on 4/15/10, subject to the conditions of Amended Final Approval granted on, 4/15/09.

Mr. Astorino: Kirk Rother called me this afternoon. He couldn’t make it this evening. He said that their Attorney, Robert Dickover sent over on 3/25/10 some documentation to John Bollenbach. Is that correct?

Mr. Bollenbach: Yes.

Mr. Astorino: They are in the process of working on this.

Mr. McConnell: I want to ask Laura a question on her request for extensions and agency approval checklist. Since this is one of the first times that we are seeing this, could you walk me through on what this is telling me.

Laura Barca: The purpose of this form is to update the Planning Board on one piece of paper on where the applicant stands with all of their outside agency approvals or if the approvals are even required. In this applicant’s case, you could see that most of the approvals are not required. The one approval that is required is that they are going to request a roadway dedication. They have not requested that from the Town Board yet.

Mr. McConnell: They have not even made a submittal on that yet.

Laura Barca: Correct.

Mr. McConnell makes a motion on the Ludmerer-Masker Fruit Farms application, granting ***“Re-Approval”*** of ***“Amended”*** Final Approval of a proposed 6-Lot cluster subdivision, situated on tax parcels S 53 B 1 L 20 and L 35; parcels located on the eastern side of Brady Road, closest intersection with Cascade Road, in the MT/CO zones, of the Town of Warwick, County of Orange, State of New York. Amended Final Approval was granted on, 4/15/09. “Re-Approval” of Amended Final Approval becomes effective on, 4/15/10, subject to the conditions of Amended Final Approval granted on, 4/15/09.

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

2. **Wheeler Road Estates** – Letter from Ryan McGuire from Pietrzak & Pfau Engineering, dated 3/16/10 addressed to the Planning Board in regards to the Wheeler Road Estates Subdivision – requesting (2) 6-Month Extensions making it their 8th and 9th 6-Month Extensions on Preliminary Approval of a proposed 32-Lot cluster subdivision, situated on tax parcel SBL # 8-2-44.223; parcel located on the northerly side of Wheeler Road (C.R. #41) at the intersection of Dussenbury Drive, in the RU zone. Preliminary Approval was granted on, 11/2/05. *The applicant has stated that their attorney is drafting up the necessary paperwork for the formation of a drainage district for this project.* The 8th 6-Month Extension becomes effective on, 11/2/09. The 9th 6-Month Extension becomes effective on, 5/2/10.

Mr. Astorino: We spoke to Mr. Wolpert at the Work Session. The bottom line is that they are having financial difficulties. They should have sent another letter in. He made it clear to us at the Work Session on what the deal was.

Mr. McConnell makes a motion on the Wheeler Road Estates application, granting 8th and 9th 6-Month Extensions on Preliminary Approval of a proposed 32-Lot cluster subdivision, SBL # 8-2-44.223. Preliminary Approval was granted on, 11/2/05. The 8th 6-Month Extension becomes effective on, 11/2/09. The 9th 6-Month Extension becomes effective on, 5/2/10.

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

3. **Lands of Masanda-Luft Subdivision** – Letter from Kirk Rother, Engineer, dated 4/14/10 addressed to the Planning Board in regards to the Masanda-Luft Subdivision – requesting **2nd Re-Approval** of Final Approval of a proposed 22-Lot cluster subdivision + 2-Affordable Homes subdivision and Special Use Permit for the Affordable Homes, situated on tax parcel S 26 B 1 L 6.5; parcel located on the northern side of Newport Bridge Road and at the intersection with Blooms Corners Road, in the RU zone, of the Town of Warwick. Final Approval was granted on, 4/16/08. The 1st Re-Approval of Final Approval was granted on, 4/1/09 became effective on, 4/16/09. *The applicant has stated due to the current economic conditions, the applicant has had difficulty in obtaining the necessary financing to satisfy the conditions of final approval.* The 2nd Re-Approval of Final Approval becomes effective on, 4/16/10, subject to the conditions of Final Approval granted on, 4/16/08.

Mr. Astorino: I spoke to Kirk Rother about this project. He said that the roads are over a million-dollar bond. There is no way that the banks today are even considering that at this point.

Mr. McConnell: Laura, I don't see that sort of information on your extension request form.

Laura Barca: Connie, did we receive this extension request form from Kirk Rother?

Connie Sardo: Yes.

Mr. McConnell: This form is just about whether our documents are giving us all the information.

Mr. Astorino: But, point blank, there is no money.

Mr. McConnell: I understand that.

Mr. Bollenbach: Dennis, regarding that checklist for the extension requests, maybe we could have a little note at the bottom stating to “attach a narrative explaining the need for the extension”.

Mr. McConnell: Yes. Or, they could fill it in under “others specified”. I like the idea of this form.

Connie Sardo: Isn't that explained in the cover letters that they send along with the form the hardship story?

Mr. McConnell: It organizes my disorganized mind.

Mr. Astorino: That will be fine.

Mr. McConnell makes a motion on the Masanda-Luft Subdivision, granting “*2nd Re-Approval*” of Final Approval for a proposed 22-Lot cluster subdivision + 2 Affordable Homes subdivision and Special Use Permit for the Affordable Homes, situated on tax parcel S 26 B 1 L 6.5; parcel located on the northern side of Newport Bridge Road and at the intersection with Blooms Corners Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 4/16/08. The 2nd Re-Approval of Final Approval becomes effective on, 4/16/10, subject to the conditions of Final Approval granted on, 4/16/08.

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

4. Planning Board Minutes of 4/7/10 – Planning Board Minutes of 4/7/10 for Planning Board Approval.

Mr. Kennedy makes a motion to Approve the Planning Board Minutes of 4/7/10.

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

5. Planning Board to discuss cancelling the 4/26/10 Work Session and the 5/5/10 Planning Board meeting due to no submittals.

Mr. Kennedy makes a motion to cancel the 4/26/10 Work Session and the 5/5/10 Planning Board meeting.

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

Correspondences:

Mr. Astorino: We had a letter sent to us regarding the Watchtower application. The letter was unsigned and undated. That is where it will go. That is the end of it. There is no date or signature from anyone.

Mr. McConnell: Was that for the Watchtower or about the Watchtower?

Mr. Astorino: It was about the Watchtower.

Mr. McConnell: How did that letter arrive?

Mr. Astorino: It came by regular mail. If there is no signature on it, we don't have to take it.

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 that there was no public comment.

Mr. Kowal: John, regarding the Fairground's application, if the Professionals review the criteria and determine whether or not it would be a significant change, couldn't we make that decision at a Work Session or does that have to be made at a Planning Board meeting?

Mr. McConnell: Is that as to whether a public hearing is required?

Mr. Bollenbach: We are going to have a public hearing. We have already set it for a public hearing. You would make a decision as to whether or not you want to put it on the next agenda or not.

Mr. Kowal: Ok.

Mr. Bollenbach: It also depends if the project had been subject to controversy in the past. Or, if it was subject to public interest. It is really a discretionary thing on the Board's part.

Mr. Astorino: We will discuss it at a Work Session to decide what we want to do.

Mr. Bollenbach: Yes.

Mr. Kowal: Ok.

Mr. McConnell makes a motion to adjourn the April 21, 2010 Planning Board meeting.

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