

TOWN OF WARWICK PLANNING BOARD

May 7, 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, May 7, 2008, at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF 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. Continued Public Hearing from the April 2, 2008 Planning Board meeting.

Mr. Astorino: Connie, could you please read the letter that we received from Tom Hitchins, Architect?

Connie Sardo: We received a letter from Tom Hitchins, Architect, dated 5/5/08 addressed to the Planning Board. The letter is stated as follow:

Dear Sir:

At the request of Mr. Blandi, please remove this application from your agenda. Mr. Blandi will not be moving forward with this project.

Sincerely,

Tom Hitchins, Architect

Mr. Astorino: Thank you. They are off the agenda.

PUBLIC HEARING OF Alisha M. 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, County of Orange, State of New York.

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

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. For the record - A septic dye test, witnessed by the Town Engineer, was performed at the property. There was no evidence of system failure.
4. Provide photos of the house to the Board.
5. Include a graphic scale on the Site Plan.
6. PB Attorney to define private road maintenance requirements.
7. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 5/7/08:

Alisha M. Fuller - The CB restates all its prior comments on this project. The CB concurs with the Town Engineer's suggestion that the PB consider applying to this property the same conditions as are required in Aquifer Protection Zones. While the CB agrees this should be a legislative change, in the interim, appropriate conditions to this application are strongly recommended. In fact, the CB notes the Comprehensive Plan Review Committee has made a recommendation that the Town Board create a "Public Water Supply Watershed Overlay" that would essentially achieve the same thing and would apply to properties in the Glenmere Lake area.

The following comment submitted by the ARB, dated 5/7/08:

Alisha M. Fuller – None Submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has submitted a short EAF. The Planning Board has already declared itself Lead Agency on this application. The only outstanding issue on this was the applicant was to provide us with photos regarding any mitigation plantings.

Comment #2: Applicant to discuss project.

Frey Fuller: The house presently is a 2-bedroom house which is 1,304 square feet. We intend to build an addition to the house which would total 1,704 more square feet. We will need one additional bedroom and kitchen. We will be turning it into a mother/daughter house for myself to live in the basement.

Comment #3: For the record - A septic dye test, witnessed by the Town Engineer, was performed at the property. There was no evidence of system failure.

Comment #4: Provide photos of the house to the Board.

Mr. Astorino: You have just provided those photos.

Comment #5: Include a graphic scale on the Site Plan.

Frey Fuller: I spoke to Roger Lupino. He said that it is on the plan. I have brought another copy of it.

Mr. Bollenbach: We will keep that comment on there.

Comment #6: PB Attorney to define private road maintenance requirements.

Mr. Bollenbach: That comment should read as; Provide private road maintenance agreement to the Planning Board Attorney's specifications.

Comment #7: Pay outstanding review fees.

Frey Fuller: Yes.

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

Mr. Singer: We have received a couple of letters from neighbors implying that they were told 20 years ago when they bought the house that they could not build closer than 200 feet to the lake. Mr. Bollenbach, was that ever solved?

Mr. Bollenbach: The Fuller's deed does not contain any restrictions to that effect.

Mr. Astorino: Is there anything in the code to that effect?

Mr. Bollenbach: No.

Mr. Astorino: Do you want me to read these letters for the record.

Connie Sardo: There is one letter from Barbara Draimin. She called me today and asked to scratch her letter because she does not want to seem like a bad neighbor.

Mr. Bollenbach: That letter has been withdrawn.

Mr. Astorino: The Barbara Draimin letter is withdrawn. We also have a letter from Laurie Post, dated 5/7/08. The letter is stated as follow:

Dear Chairman and Planning Board,

I am sending this letter as my work schedule may prevent me from attending the meeting this evening and I am concerned with this matter. My husband, Willem Post and I received initial notice of this proposal , several months ago, and assumed that the plan would be denied because of the proximity of the property to the lake. I was surprised to receive a second notice concerning this matter. Why wasn't this proposal flatly denied initially ?

When we purchased our home , seven years ago, we were told that there could never be any construction within 200 feet of the lake in order to protect the integrity of the water supply. This was one of the main reasons we purchased our home - a beautiful view of a beautiful lake with no chance of it being disturbed. Even though the proposal states that it will be utilizing existing well and septic systems, I still worry about the contaminants from construction materials that would find their way into the lake.

Thank you for allowing me to express my thoughts to the Board.

*Sincerely,
Laurie Post*

Mr. Astorino: We just found out that there is nothing in the code. Whoever told her that, I don't know. Maybe a realtor stated that when she bought her home. To that end, the septic proves out. I don't see any merit to that. Do any Board members or Professionals have any comments?

Zen Wojcik: Mr. Chairman, it is still included in a Designated Protection Area.

Mr. Astorino: That is why they are here before us.

Zen Wojcik: Right. Be careful about sediment going into the lake.

Mr. Astorino: That is why they are here. We have a comment from the Conservation Board comment, dated 5/7/08.

Mr. Bollenbach: That would be a comment for the Town Board's consideration.

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

Mr. Kowal makes a motion for the 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 Negative Declaration

Name of Action: Fuller Site Plan

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed residence addition within a Designated Protection Area, Town of Warwick, Orange County, New York, and

Whereas, there are no other involved agencies pursuant to SEQR, and

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 1/26/08, 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. Bollenbach: Has the Planning Board had the opportunity to review the photos that were just submitted?

Mr. McConnell: Yes.

Mr. Bollenbach: It appears that there would be no adverse impacts. Do any Board members have any comments on the photos?

Mr. Astorino: Is everybody ok with that?

Mr. Showalter: It looks good.

Mr. McConnell makes a motion to close the public hearing.

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

Mr. Showalter makes a motion on the Alisha M. Fuller application, granting 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, County of Orange, State of New York, subject to the following conditions:

1. Include a graphic scale on the Site Plan.
2. Provide Private Road Maintenance Agreement to Planning Board Attorney's specifications.
3. Pay Outstanding Review Fees.

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

Mr. McConnell: I wanted to ask the Engineer a question. Zen, is there something beyond just a simple silt fencing that we see ordinarily. Maybe, they could provide a little extra protection for silt.

Zen Wojcik: Silt fencing, if it is constructed properly, it is very effective.

Mr. McConnell: Ok. There is no need for any belt and suspenders on that.

Zen Wojcik: No.

Mr. McConnell: Ok. I have nothing further.

Frey Fuller: Thank you.

Review of Submitted Maps:***Michael Hoensch***

Application for Site Plan Approval and Special Use Permit for the Construction and Use of a Class 2 Home Occupation, situated on tax parcel S 17 B 1 L 21.192; project located on the southern side of Spanktown Road and the corner of Union Corners Road, in the RU zone, of the Town of Warwick.

Representing the applicant: Michael Hoensch, applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
 - a. Define the location where the Home Occupation will take place.
3. If any equipment is used in the proposed Home Occupation, note where that equipment is stored.
4. If a sign is proposed, provide a detail conforming to the Code requirements.
5. Pave the first 25' of the driveway.

The following comment submitted by the Conservation Board, dated 5/7/08:

Michael Hoensch – The CB has no further comments.

The following comment submitted by the ARB, dated 5/7/08:

Michael Hoensch – None submitted.

Comment #1: Board to discuss SEQR.

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

Mr. McConnell makes a motion for Lead Agency.

Seconded by Mr. Singer. 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: Hoensch Home Occupation

Whereas, the Town of Warwick Planning Board is considering action on a proposed Special Use Permit application by Michael Hoensch for a \pm 3.8 acre parcel of land located at Union Corners Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 3/26/08 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.

- a. Define the location where the Home Occupation will take place.

Michael Hoensch: I am a contractor that has a few pieces of equipment. I am in the oil tank business. I install and remove oil tanks. I store some tanks in my garage. It is out of sight. I recently put up a barn where I keep my trucks inside.

Mr. Showalter: Mike, are they new tanks?

Michael Hoensch: Yes. They are new tanks.

Mr. Showalter: Ok.

Mr. Bollenbach: It is all equipment that is stored inside.

Michael Hoensch: Yes.

Mr. Astorino: So, if you have any excavators or backhoes, they are stored inside.

Michael Hoensch: Yes. They are stored inside my barn.

Mr. Bollenbach: Is there storage of old tanks?

Michael Hoensch: No. There is no storage of old oil tanks.

Mr. Singer: What do you do with the old tanks?

Michael Hoensch: The old tanks go over to a scrap yard. I usually bring them to Specht's place, if I am doing a job local here in Town. If I am elsewhere, I will deliver to the nearest scrap yard is located. With the prices of fuel, we try to go to the closest place.

Mr. Astorino: Don't you have to go to a special place?

Michael Hoensch: No.

Mr. Showalter: Ben, it has to be cleaned first. Then, the scrap yard will accept the tanks.

Mr. Bollenbach: They clean them up first.

Mr. McConnell: Do you ever keep one there overnight?

Michael Hoensch: I might have one on the back of my truck. That tank would have already been cleaned.

Mr. McConnell: Does it come off your truck?

Michael Hoensch: No.

Mr. Singer: How do you clean them?

Michael Hoensch: We have to enter the tanks by a whole that is cut.

Mr. Singer: You have to enter them. Does the oil go onto the ground where you are working?

Michael Hoensch: No. All of the cleaning takes place at where I am doing the project. If I am doing a job in Middletown, New York, I cut and clean the tank right there on site. Then, the tank is removed that way.

Mr. Bollenbach: The remnants from the cleaning will stay on site and then shipped out from there?

Michael Hoensch: Correct.

Comment #3: If any equipment is used in the proposed Home Occupation, note where that equipment is stored.

Michael Hoensch: That will be inside the barn.

Comment #4: If a sign is proposed, provide a detail conforming to the Code requirements.

Michael Hoensch: There will be no signs.

Mr. Astorino: We could strike that comment. There will be no signs proposed.

Comment #5: Pave the first 25' of the driveway.

Michael Hoensch: No problem.

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

Mr. McConnell: I would like to be assured that none of these tanks would leave Mr. Hoensch's truck if he happens to be late in the day and he could not get to one of these scrap yards where he takes them. I don't want to find out that it was there just for a day or two or the scrap yard was closed. If it is on the truck and the truck is in the barn that would be one thing. Anything other than that, would cause me great concern.

Michael Hoensch: I appreciate your concern. It would be just like a brand new tank. It would be clean. They are quite stringent with making sure that these tanks are properly done.

Mr. McConnell: I want to be sure that if it comes to Warwick, it doesn't get off your truck.

Michael Hoensch: Ok. It does get done. I am just trying to let you know.

Mr. Showalter: Mike, I assume that you usually take the tank to the scrap yard before you pick up the new tank.

Michael Hoensch: My new tanks are staged inside my garage. I will go to the site with a new tank on board. I take the old tank out. When I leave, I bring it right to the scrap yard.

Mr. Astorino: We will have a comment stating a map note that no oil tank storage on premises.

Mr. Bollenbach: Off -loaded.

Mr. McConnell: Let John work on that note.

Mr. Astorino: Yes.

Mr. McConnell: I want it to be on the record that these things don't leave his truck in Warwick. It will be Specht's problem, not mine.

Mr. Astorino: That will be comment #6. We will add a comment #7, payment of fees. This will have to be set for a public hearing.

Mr. Bollenbach: Correct.

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

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

Connie Sardo: Just send me a letter stating what agenda you would want to be on for a public hearing.

Michael Hoensch: Ok. I will call your. Thank you.

Kristian and Lee Ann Matthews

Application for Site Plan Approval and Special Use Permit for the construction and use of the conversion of a non-conforming commercial use to a single-family dwelling, situated on tax parcel S 61 B 1 L 37; project is located on the southern side of NYS Route 17A/210 opposite of the south end of Old Tuxedo Road, in the MT zone, of the Town of Warwick. Previously discussed at the 2/20/08 Planning Board meeting.

Representing the applicant: John Atzl, Engineer. Kristian Matthews, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Dwelling #3 is proposed for conversion to residential use. Show location of proposed septic system and provide a design with details of components. Town Engineer's representative must witness percs & deeps.
4. In the Bulk Table, list the Minimum Livable Floor Area per Dwelling Unit (1200 sf) and show that each of the two existing and one proposed dwellings complies.
5. Regarding the detail for the construction of the proposed 4-foot tall stone wall at the proposed parking area:
 - a. It is noted that boulders & stones will be excavated from the site. Show the location of the excavation. Provide adequate soil erosion control measures and restoration plan.
 - b. Note on the detail that boulders and stones shall be set in an interlocking pattern.
 - c. Show geotextile fabric placed along the back face of the wall before backfill.
6. Show the widening of the driveway in the vicinity of Dwelling #3. Provide a typical common driveway section, according to §164-41.2K. Common driveways must be paved.
7. Existing well (which will serve three dwelling) is situated in the active driveway 110' from the Dwelling #2 seepage pit where 150' is the minimum offset, and 60' from the Dwelling #1 septic absorption field where 200' is the minimum offset. Board to consider referral to OCHD for review of suitability of well to serve Dwelling #3.
8. 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.
9. Provide 9-1-1 addressing for all dwellings on plan.
10. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes.

The following comment submitted by the Conservation Board, dated 5/7/08:

Kristian and Lee Ann Matthews – The CB has no further comments.

The following comment submitted by the ARB, dated 5/7/08:

Kristian and Lee Ann Matthews – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant submitted a short EAF. The Planning Board is acting as Lead Agency on this application. There are a few comments in the review comments tonight that relate to SEQR.

Comment #2: Applicant to discuss project.

John Atzl: The Board is familiar with this project. This project is located on a hill leading down into Greenwood Lake on Route 17A. Mr. Matthews went to the ZBA to convert an old existing real estate office into a dwelling. They received a use variance from the ZBA subject to the Planning Board granting site plan approval.

Mr. Singer: You use to have many antique cars up in the garages. Are they still there?

Kristian Matthews: No. They are all gone.

Comment #3: Dwelling #3 is proposed for conversion to residential use. Show location of proposed septic system and provide a design with details of components. Town Engineer's representative must witness percs & deeps.

John Atzl: We will provide that information.

Mr. McConnell: Why do you want to convert this to residential?

Kristian Matthews: Being that it was commercial, it has a lot of traffic there. It was basically half residential and half commercial. I am not interested in having commercial. I don't want to put my business there. It would be a lot cleaner with a nicer appearance.

Mr. McConnell: Your plan is to have it as a rental unit rather than having some family member who would occupy it.

Kristian Matthews: Correct.

Comment #4: In the Bulk Table, list the Minimum Livable Floor Area per Dwelling Unit (1200 sf) and show that each of the two existing and one proposed dwellings complies.

John Atzl: We will provide that information.

Comment #5: Regarding the detail for the construction of the proposed 4-foot tall stone wall at the proposed parking area:

- a. It is noted that boulders & stones will be excavated from the site. Show the location of the excavation. Provide adequate soil erosion control measures and restoration plan.

John Atzl: No problem.

- b. Note on the detail that boulders and stones shall be set in an interlocking pattern.

John Atzl: We will comply.

- c. Show geotextile fabric placed along the back face of the wall before backfill.

John Atzl: We will comply.

Comment #6: Show the widening of the driveway in the vicinity of Dwelling #3. Provide a typical common driveway section, according to §164-41.2K. Common driveways must be paved.

John Atzl: We will provide the widening of the driveway. We are asking that the Board consider, due to the length of this driveway and that it would only serve three homes, that it would remain gravel.

Mr. Astorino: Does the Board have anything on that? I think we always have gone with the paving on it.

Zen Wojcik: Mr. Chairman, I want to remind you that the DOT is looking at this. Currently, the driveway is a loop that connects on both ends. There might be some changes as the DOT takes a look at this.

Mr. Astorino: Ok. It has been a policy of the Board to go with the paving.

Mr. Bollenbach: It is a requirement in the code.

Mr. Astorino: We will give you the heads up on that right now.

Mr. McConnell: Our next comment states that we have a well right in the middle of the driveway.

Comment #7: Existing well (which will serve three dwelling) is situated in the active driveway 110' from the Dwelling #2 seepage pit where 150' is the minimum offset, and 60' from the Dwelling #1 septic absorption field where 200' is the minimum offset. Board to consider referral to OCHD for review of suitability of well to serve Dwelling #3.

Mr. McConnell: Good idea.

Mr. Astorino: It would be a good plan to find out where you are going. Are you going to keep the driveway where the well is?

John Atzl: Mr. Matthews was going to consider offering the Board that we test the water coming out of that well.

Mr. Astorino: Let the Health Department deal with that.

Zen Wojcik: The Health Department might ask that the water be tested.

Mr. Astorino: Then you would be done with it. I assume that would happen anyway. You will need to do that.

John Atzl: Would we be the ones to forward it to the OCHD?

Zen Wojcik: We will write the letter to OCHD. We will refer you to them. We will probably ask you for a set of plans.

John Atzl: Ok.

Mr. McConnell: I am not comfortable with the one well serving three dwellings.

Mr. Astorino: Maybe the Health Department won't be either. Let's get their comments.

Mr. McConnell: I would like to reserve the ability to come back on this particular comment to discuss it further.

Mr. Astorino: I agree. Let us hear the Health Department's comments first.

Kristian Matthews: So that you know, that has been serving that for 25 years.

Mr. McConnell: I thought that the third building wasn't residential.

Kristian Matthews: Maybe, I was unclear. When I bought the property originally, dwelling #3, which is what we are here for, was an apartment up above and an office building down below. That was how I bought it. It had a septic already down there. Originally, it ran off the same well that everything has been running off for 25 years.

Mr. McConnell: How long ago was it just commercial?

Kristian Matthews: I don't believe it was ever just commercial. It always had living quarters above. It had a shower and bathroom in the building and office space. That was the way I got it.

Mr. McConnell: The heading of our thing here says for a conversion of an existing commercial building to residential use. You are telling me here now that it has been used as residential.

Kristian Matthews: Not by me, it wasn't used as residential.

Mr. McConnell: How long have you had it?

Kristian Matthews: I have had it for 10 years.

Mr. McConnell: Ok. So, in 10 years it hasn't been used for residential.

Kristian Matthews: No.

Mr. McConnell: I will then restate my comment. I am uncomfortable with three residences running off one well.

Mr. Astorino: Zen, let me ask a question. Regarding the septic where one is 60 feet and the minimum requirement is 200 feet, would that be the Health Department's issue?

Zen Wojcik: Yes.

Mr. Astorino: Ok.

Comment #8: 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.

John Atzl: We will provide.

Comment #9: Provide 9-1-1 addressing for all dwellings on plan.

John Atzl: We sent it to 9-1-1.

Comment #10: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes.

John Atzl: We will provide.

Mr. Astorino: You will need to go to the Health Department. Once you get their comments, we will go from there.

John Atzl: Ok. Thank you.

Mountain Glen #2 (Site Plan)

Application for Site Plan Approval for the construction and use of proposed grading and excavation to mitigate existing drainage concerns, entitled, ***Mountain Glen #2***, situated on tax parcel S 66 B 1 L 1; project is located on the southeastern side of Miriam Road 825 feet from the intersection of Bellvale Blvd., in the RU/MT zones, of the Town of Warwick.

Representing the applicant: Mr. Lipman, Attorney. James Ramos from Kirk Rother Engineering.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Revise/correct the application:
 - a. Cite the liber, page and date of the filed map. Provide a copy of the deed.
 - b. Since the owner is a corporation, 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.
 - c. Circle the type of project: Site Plan, Special Use Permit.
4. The applicant proposes a temporary diversion swale.
 - a. Temporary check dams shall not be used when the drainage area above the check dam exceeds 2 acres. Show and calculate the size of the drainage area contributing to the diversion swale.
 - b. The diversion swale is not dimensioned. Design an appropriately sized swale for the drainage area and potential flows.
 - c. Provide a profile view of the swale and note the finished grade.
 - d. The swale appears to be diverting the runoff from a portion of the site into an existing drainage ditch which passes through several properties downhill of the parcel. §164-46H(7) states that drainage shall be designed to “protect other properties and public roadways” and to “avoid an increase in peak stormwater volume and velocity”. Show that the proposed scheme meets these requirements.
5. The applicant proposes a 4' high earthen berm, approximately 380' long.
 - a. Provide a section view of the berm.
 - b. Clarify if the berm is intended as a temporary or permanent structure.
 - If temporary, refer to temporary seeding notes on sheet 2.
 - If permanent, provide a landscaping plan using native trees and shrubs.
 - c. Clarify the source of the fill to construct the berm.
 - If the source is onsite excavation, show the excavation site, show that a drainage or stability problem will not result from the excavation, and provide notes and details for the stabilization of the excavation.
 - If fill will be imported, place the following note on the plan: “The applicant shall provide the Building Department certification from the excavator/hauler as to the source and cleanliness of the fill.”
6. The Violation Notice notes that the apparent cause of the erosion is “temporary roads ... now being used as ATV trails.” The plans do not address the cause of the current problem nor do they provide a means of resolution. Applicant to discuss.
7. Runoff from the site has caused erosion at the Miriam Drive swales. Propose remediation measures, provide a detail, and show the limits of repair on the plan.

8. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 5/7/08:

Mountain Glen #2 (Site Plan) – In light of the applicant's assertion that as long as ATVs are used on the trails runoff of surface water will continue, the CB recommends the PB consider requiring the installation of a retention basin to prevent or reduce the runoff from continuing toward Longhouse Creek.

The following comment submitted by the ARB, dated 5/7/08:

Mountain Glen #2 (Site Plan) – None Submitted.

Mr. Lipman: Before we start, I would like to ask a question. Twice, I have communicated with the Board with Connie to suggest that this is not an application for site plan approval. It is an application for a permit under Chapter 150 for an excavation permit.

Mr. Astorino: John, have you reviewed that?

Mr. Bollenbach: It is Chapter 150. It is Planning Board site plan review for an excavation permit.

Mr. Lipman: Where do you get that?

Mr. Bollenbach: It is site plan review. It is the same basic information for the Planning Board to review.

Mr. Lipman: You are not planning to review this as an application for site plan approval.

Mr. Bollenbach: Yes. I believe we are.

Mr. Lipman: What do you expect that would happen procedurally after tonight?

Mr. Bollenbach: We will set it for a public hearing.

Mr. Lipman: Why? Why would there be a public hearing?

Mr. Bollenbach: There are numerous people that are affected by the activities that have taken place on the property. There was flooding, drainage concerns, and destruction of the Town roads. Yes, there will be a public hearing.

Mr. Lipman: That is why we are here?

Mr. Bollenbach: Yes.

Mr. Lipman: Where is there the requirement of a public hearing?

Mr. Bollenbach: I will leave it to the Board's discretion. Does the Board care to waive the public hearing?

Mr. Astorino: No. I don't believe so.

Mr. Bollenbach: Ok.

Mr. Lipman: What do you mean waive it? Where is it required?

Mr. Astorino: Are you saying that it is not required?

Mr. Lipman: It is not required. It is certainly not required for an excavation permit. Even if it were required, a public hearing is only needed if there is a special permit associated with the site plan. There is no statutory requirement for a public hearing.

Mr. Bollenbach: I will review it and get back to the Board. We will discuss it with the Judge on May 13th.

Mr. Lipman: We will discuss a lot of things with the Judge on May 13th. I am sure of that.

Mr. Astorino: Is there a date for that?

Mr. Bollenbach: Yes. It is May 13, 2008.

Mr. Astorino: Even if they made an application before the Planning Board?

Mr. Bollenbach: Yes. It has to be diligently pursued. We will take a look to see if it is a complete application.

Mr. Lipman: I am not sure. It does not include a public hearing. It is unnecessary.

Mr. Bollenbach: It requires a complete application.

Mr. Lipman: Is there an issue about that?

Mr. Bollenbach: We will keep that open. Let us take a look at the comments.

Comment #1: Board to discuss SEQR.

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

Mr. Kowal makes a motion for Lead Agency.

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

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Mountain Glen 2

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application by Mountain Glen at Warwick Corp. for a \pm 0.8 portion of a 90.5 acre parcel of land located at Miriam Drive, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 4/14/08 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.

James Ramos: We are here before the Board to present a site plan to address any erosion problems downstream of the applicant's property.

Mr. Bollenbach: Ted just brought to my attention §164-46B(3)(b) Site Plan and Special Permit approval. I will read part of that section. *"Site plan approval may be required, with the exception of commercial agricultural operations, for excavation and construction activities within areas of environmental sensitivity as identified herein, (b) For lands lying within the Ridgeline Overlay Districts (RL-O).*

Mr. Lipman: You don't waive something that the Board has the right to ask for. There is no requirement. That was what I had said. I stand by it.

Mr. Bollenbach: I will leave it to the Board. Would the Board like to have a site plan review of this application which is in the RL-O?

Mr. Lipman: We are giving you everything that you need to possibly determine whether the erosion problem is going to be addressed by us by this plan. There is no need to draw this thing out beyond what is necessary. You have an Engineer. He is absolutely capable of establishing his own satisfaction and to your satisfaction on whether this plan does the job.

Mr. Astorino: That will be something for the Board to discuss.

Comment #3: Revise/correct the application:

- a. Cite the liber, page and date of the filed map. Provide a copy of the deed.

Mr. Lipman: We will do that.

James Ramos: We have just handed a packet to the Secretary and the Attorney.

- b. Since the owner is a corporation, 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.

James Ramos: That is also included in the packet.

- c. Circle the type of project: Site Plan, Special Use Permit.

James Ramos: That has been done. It is in the packet.

Connie Sardo: Just site plan is circled, not special use permit.

Mr. Lipman: There is no special use permit.

Mr. Astorino: So, you just circle site plan.

Mr. Bollenbach: That was what was circled.

Mr. Lipman: It actually should not have been circled. But, for the fact that you have a generic application form for all applications to this Board, you do not have an application for an excavation permit.

Mr. Astorino: It is a site plan.

Mr. Lipman: This is not an application for site plan approval. If you think that it has to be handled that way and you have that discretion, be my guest. Even if it is, your procedures do not call for a public hearing unless there is a special use permit.

Mr. McConnell: You are saying that our procedures don't require. There is deference.

Mr. Lipman: No. It is exactly what I had said. They don't call for a public hearing.

Mr. McConnell: They give us the discretion. Is that a yes or no?

Mr. Lipman: No. The Regulations don't give you that discretion.

Mr. McConnell: Really. So, we can't call a public hearing.

Mr. Lipman: I didn't say that either.

Mr. McConnell: What are you saying?

Mr. Lipman: Exactly what I had said. They don't call for a public hearing.

Mr. McConnell: I would like to have a public hearing.

Mr. Lipman: You may, if you like.

Mr. McConnell: Thank you.

Mr. Lipman: I might even come to that.

Mr. McConnell: I would have it no other way.

Comment #4: The applicant proposes a temporary diversion swale.

- a. Temporary check dams shall not be used when the drainage area above the check dam exceeds 2 acres. Show and calculate the size of the drainage area contributing to the diversion swale.

James Ramos: Ok.

- b. The diversion swale is not dimensioned. Design an appropriately sized swale for the drainage area and potential flows.

James Ramos: Ok.

- c. Provide a profile view of the swale and note the finished grade.

James Ramos: Ok.

- d. The swale appears to be diverting the runoff from a portion of the site into an existing drainage ditch which passes through several properties downhill of the parcel. §164-46H(7) states that drainage shall be designed to "protect other

properties and public roadways” and to “avoid an increase in peak stormwater volume and velocity”. Show that the proposed scheme meets these requirements.

James Ramos: Yes. We will divert the water to the existing drainage courses. We will give you whatever you need to avoid the peak stormwater velocity. We are putting it towards where the natural drainage goes right now.

Zen Wojcik: You are concentrating the flow. Where it goes right now is over land. It causes mayhem along the way, but it does go over land. You will be concentrating the flow. What the code requests from any applicant, is to show that you are protecting other properties and public roadways, and that you are avoiding an increase in peak stormwater and velocity.

Mr. Lipman: I wouldn't have that any other way. It has to be done.

Comment #5: The applicant proposes a 4' high earthen berm, approximately 380' long.

a. Provide a section view of the berm.

James Ramos: Ok.

- b. Clarify if the berm is intended as a temporary or permanent structure.
- If temporary, refer to temporary seeding notes on sheet 2.
 - If permanent, provide a landscaping plan using native trees and shrubs.

Mr. Astorino: Wouldn't you want this to be permanent?

Zen Wojcik: Yes. Mr. Chairman, go through the rest of the comments.

Mr. Astorino: I would like to see it permanent. That is the reason for this.

James Ramos: It will be permanent at this point in time until further development of this site.

Mr. Astorino: I am going to strike that temporary. The whole point of this is to stop the water. At this point, add some trees and shrubs.

Mr. Lipman: We don't have any idea of when the rest of this property would be developed. As far as I am concerned, it is as permanent as I am.

Mr. Bollenbach: Zen, correct me if I am wrong. There might be some need for some temporary seeding during the excavation of these facilities.

Zen Wojcik: It goes to what the uses are going to be. If this is intended to be a temporary measure until something grander, better, or whatever is going to occur, then it is temporary.

Mr. Bollenbach: Let us keep it as permanent.

Zen Wojcik: Comment #6 will refer to what I am talking about.

Mr. Lipman: You wouldn't ask us to do an extraordinary landscaping job.

Mr. Astorino: I think trees and shrubs are all that is required.

Mr. Lipman: You want soil stabilization.

Mr. Astorino: Exactly.

Mr. Lipman: That obviously has to be done. I don't want to spend a lot of money on landscaping that might be torn up. I do want the thing to work for the foreseeable future.

Mr. Astorino: In my opinion, you should seed it and plant some trees and shrubs that would stabilize the berm.

Mr. Lipman: That is fine.

- c. Clarify the source of the fill to construct the berm.

James Ramos: We will be doing the excavation right on the site.

- If the source is onsite excavation, show the excavation site, show that a drainage or stability problem will not result from the excavation, and provide notes and details for the stabilization of the excavation.

James Ramos: It will be right behind where the berm is. We will show it on the plan.

- If fill will be imported, place the following note on the plan: "The applicant shall provide the Building Department certification from the excavator/hauler as to the source and cleanliness of the fill."

Mr. Astorino: Would you be importing any fill?

James Ramos: No.

Comment #6: The Violation Notice notes that the apparent cause of the erosion is "temporary roads ... now being used as ATV trails." The plans do not address the cause of the current problem nor do they provide a means of resolution. Applicant to discuss.

Mr. Lipman: That is a very interesting issue. I have other clients that own property that is being used by kids that drive ATV's. There isn't any way you could prevent them from gaining access. I don't know what kind of obstruction could be placed in a way that would preclude the abuse of this property. I don't intend to hire a policeman to stand by and prevent trespass by youngsters who are anxious to exercise their ATV's. If you have any reasonable idea of how we could address this particular issue, I would be happy to listen.

Mr. Astorino: We have to stop the water coming onto the properties and the Town roads. I don't know how you would stop the ATV's.

Mr. Bollenbach: The problem is the soil erosion. Within our logging provisions, there is a requirement for water bars. Zen, have any water bars been proposed along that trail in the immediate vicinity? That might help to stabilize.

Zen Wojcik: We are looking for the applicant to say that there is a problem and this is how they would resolve the problem.

Mr. Bollenbach: Take a look at Chapter 150 Timber Harvest. There is criteria in there for the installation of water bars that go across the contours so that it doesn't rut. Take a look for some suggestions.

Mr. Lipman: What is a water bar?

Mr. Astorino: It is an erosion control strip across the road.

Mr. Bollenbach: Sometimes they use logs. They put the logs across the driveway and dig a little swale. This is a good way to avoid making ruts in the road.

Mr. Lipman: Ok. It is to direct the water. That is a simple solution. If it works, do it.

Mr. Bollenbach: Then there is some grading and seeding.

Mr. Astorino: Ok. We are good with that.

Comment #7: Runoff from the site has caused erosion at the Miriam Drive swales. Propose remediation measures, provide a detail, and show the limits of repair on the plan.

James Ramos: I believe you have addressed what you wanted when you did the site visit with Kirk.

Mr. Astorino: Take the rip-rap out and throw some asphalt in it.

James Ramos: We will show that on the plans.

Comment #8: Pay outstanding review fees.

James Ramos: Yes.

Connie Sardo: We have a Conservation Board comment, dated 5/7/08.

Mr. Bollenbach: Regarding the CB comment, that would be up to the applicant to propose.

Mr. Lipman: We are going to design something that your Engineer would be reasonably comfortable with.

Mr. Astorino: That sounds like a plan.

Zen Wojcik: Once we see it, we will know it.

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

Mr. Lipman: No. I don't want to be set for a public hearing. I don't ask for a public hearing. If you want to consider the issue, then go ahead.

Mr. Bollenbach: What is the Board's pleasure?

Mr. Astorino: Why don't we set the applicant for a public hearing due to the fact that if we have a public hearing, it would be already set and not require the applicant to coming for another hearing to be set for a public hearing.

Mr. Kowal: I think that would be extraordinarily efficient.

Mr. McConnell: I think that a public hearing would make good sense.

Mr. Bollenbach: This way, we could listen to the neighbors if they have any concerns.

Mr. Astorino: There have been some concerns with a few neighbors up there.

Mr. Lipman: As there should be.

Mr. Astorino: I would hope so.

Mr. McConnell makes a motion to set the Mountain Glen #2 application for a public hearing at the next available agenda.

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

Mr. Lipman: I hope you understand that your venture in that direction would likely have a significant effect upon what we are able to report to the court in terms of timing.

Mr. Astorino: Could you elaborate on that?

Mr. Lipman: Time is the issue here.

Mr. Astorino: I understand that. I believe that if you are working with due diligence with the Planning Board, I don't think the court would have an issue.

Mr. Bollenbach: We will be getting into the rainy season. I was wondering if the Board would consider the applicant to do hydro-seed on areas that we are looking to try to stabilize. Zen, what is your feeling on that?

Zen Wojcik: Anything to stabilize the site would be positive.

Mr. Astorino: If you hydro-seeded that right now and we have heavy rain, it won't do anything.

Zen Wojcik: It would probably float down.

Mr. Astorino: Exactly. In my opinion, we have to get the applicant through the process. They need to get out there and do what they have to do. If you get everything in order and have the public hearing, the issues would be addressed. You would be on your way.

Mr. Bollenbach: I spoke to Kirk Rother on Tuesday.

Mr. Lipman: Would you have any problem if I play back from my recorder your comment about our cooperation with your Board to the court?

Mr. Astorino: I sat in court the last time. Would you like me to be there again?

Mr. Lipman: I would love you to be there.

Mr. Showalter: Is he allowed to record us?

Mr. Astorino: Yes. It is a public meeting.

Mr. Lipman: I am allowed, but I didn't.

Mr. Showalter: But, you didn't announce that you would record our meeting.

Mr. Astorino: I will repeat the same thing to the Judge as I have said to you. I don't have a problem with it.

Mr. Bollenbach: I spoke to Kirk Rother on Tuesday morning. He said that his office is working on the revisions to address all of these comments.

Mr. Astorino: When is our next submittal date?

Connie Sardo: Our next submittal date is May 14, 2008.

Mr. Astorino: Would you have this in by May 14th?

James Ramos: I hope so.

Mr. Astorino: Is that a yes?

James Ramos: I will be going on vacation.

Mr. Lipman: I will tell you that he will have it.

James Ramos: Yes. It will be here.

Mr. Bollenbach: Kirk was planning to have that in either by Thursday or Friday.

Mr. Lipman: When is your next available date?

Mr. Astorino: If you get the stuff in and it is reviewed, it could be May 21st. Would that be the date?

Mr. Bollenbach: That is what we are looking for.

Connie Sardo: Wouldn't it be the first meeting in June?

Mr. Astorino: Right. It would be the first meeting in June.

Mr. Bollenbach: No. This is before the court. It is an emergency to get this thing taken care of. We would have to review this as quickly as possible.

Mr. Astorino: Would you have this in by May 14th?

Mr. Lipman: It will be before May 14th.

Mr. Astorino: Zen, could you review this before the meeting?

Connie Sardo: The work session is Monday night.

Mr. Lipman: We will have this stuff in by the end of this week.

Mr. Astorino: Would you have the stuff in by Friday?

Mr. Lipman: You will have it.

James Ramos: I cannot commit to Friday.

Connie Sardo: Could you have it on Monday before the work session?

James Ramos: I will try my best to have it in Monday for the work session.

Mr. Bollenbach: You will need to have it expressed to Tectonic so that they could review it.

Mr. Astorino: You will also need to express it to Ted Fink of Greenplan. Are we all clear on this?

Mr. Lipman: We are absolutely clear. Thank you.

James Ramos: Thank you.

Other Considerations:

1. Planning Board 5/26/08 Work Session will be held on Tuesday, 5/27/08 @ 7:30 p.m. due to the Memorial Day Holiday.

Mr. Astorino: Ok.

2. Planning Board Minutes of 4/2/08 and 4/16/08 for Planning Board Approval. (On 5/5/08 @ 3:20 p.m. I emailed 4/16 PB Minutes to PB). (On 5/6/08 @ 10:00 a.m. I emailed 4/2 PB Minutes to PB).

Mr. McConnell makes a motion to Approve the 4/2/08 Planning Board minutes.

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

Mr. Astorino: The 4/16/08 Planning Board minutes have not been reviewed by our attorney yet. He was away on vacation. We will hold off on the 4/16/08 Planning Board minutes to the next Planning Board meeting.

3. **BCM Subdivision** – Letter from Fabricant & Lipman, dated 3/28/08 – in regards to BCM Subdivision requesting a 6-Month Extension on final approval of a proposed 40-Lot plus 1-Lot for the well and 1-Lot of open space, SBL # 44-1-133 formerly part of SBL # 44-1-50.224. Final Approval was granted on, 11/21/07. The 6-Month Extension becomes effective on, 5/21/08.

Mr. McConnell: I haven't read the letter yet. Was there a reason given for the extension?

Mr. Bollenbach: They are still working on some map notes. There is still quite a bit of stuff that they have to do. There is a water agreement involved with this.

Mr. McConnell: Right. Ok.

Mr. Bollenbach: They still have to form a Drainage District and an HOA. They are still in progress. We did meet with BCM.

Mr. Astorino: So, it is ongoing.

Mr. Bollenbach: Yes. Zen and I met with Tony and Joe of BCM last week. We went over all the outstanding items. They are in progress.

Mr. McConnell makes a motion on the BCM application, granting a 6-Month Extension on final approval of a proposed 40-Lot plus 1-Lot for the well and 1-Lot of open space, SBL #44-1-133. Final Approval was granted on 11/21/07. The 6-Month Extension becomes effective on, 5/21/08.

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

4. **Fairgrounds Project** – Letter from Fairgrounds, LLC., c/o Goddard Development Partners, LLC., dated 4/7/08 requesting a 2nd 6-Month Extension on preliminary site plan approval, preliminary special use permit approval, and preliminary 2-lot subdivision approval, SBL # 51-1-40. Preliminary Approval was granted on 5/2/07. The 2nd 6-Month Extension becomes effective on, 5/2/08.

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

Mr. McConnell makes a motion on the Fairgrounds Project, granting a 2nd 6-Month Extension on preliminary site plan approval, preliminary special use permit approval, and preliminary 2-lot subdivision approval, SBL # 51-1-40. Preliminary Approval was granted on 5/2/07. The 2nd 6-Month Extension becomes effective on, 5/2/08.

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

Karen Emmerich: We would like to be set for a final public hearing at your next meeting.

Mr. Astorino: We won't set it for that. We will set it for the next available agenda. I believe Zen just started looking at the maps now.

Zen Wojcik: Mr. Chairman, I started looking at the maps compared to the last set of comments that we had. If the Board would like to set it, that would be fine. I haven't reviewed the whole thing yet.

Mr. Astorino: We will set it for the next available agenda. If everything is up to speed and the permits are in, we will have it.

Zen Wojcik: That was my next question regarding the permits.

Mr. Bollenbach: Everything has to be in place before we could have the public hearing.

Mr. McConnell makes a motion to set the Fairgrounds Project for a Final Public Hearing at the next available agenda.

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

5. **Carl Singer Lot Line Change** – Letter from Kirk Rother, P.E., dated 4/7/08 – in regards to Carl Singer Lot Line Change requesting a 6-Month Extension on final approval of a proposed lot line change, SBL # 65-1-16.1 & 18.2. Final Approval was granted on 11/7/07. *The applicant is still awaiting preparation of the legal descriptions and associated declarations.* The 6-Month Extension becomes effective on 5/7/08.

Planning Board member, Mr. Singer recuses himself from the Carl Singer Lot Line Change application.

Mr. Kowal makes a motion on the Carl Singer application, granting a 6-Month Extension on final approval of a proposed lot line change, SBL # 65-1-16.1 and 18.2. Final Approval was granted on 11/7/07. The 6-Month Extension becomes effective on, 5/7/08.

Seconded Mr. Showalter. Motion carried; 4-Ayes.

6. **Wheeler Road Estates Subdivision** – Letter from Pietrzak & Pfau Engineering, dated 4/7/08 – in regards to the Wheeler Road Estates Subdivision requesting a 5th 6-Month Extension on preliminary approval of a proposed 31-Lot subdivision, SBL # 44-2-44.223. Preliminary Approval was granted on, 11/2/05. *There is no explanation in the applicant's 6-month extension request letter on what is the holdup.* The 5th 6-Month Extension becomes effective on 5/2/08.

Mr. McConnell: Our habit seems to be to grant these extension approvals. As I have said in the past, I would like to get some information as to why we are being asked for an approval. We have applicants that come before us and tell us that they have been waiting so long for us to move. It seems odd to me that they ask for extensions without a reason.

Mr. Astorino: I think they should have put an explanation in their letter. The delay might be from the OCHD.

Mr. Bollenbach: We could put them off until we get an explanation from the applicant.

Mr. McConnell: I would like it to become our habit to ask them for an explanation.

Mr. Astorino: That makes sense. Nine times out of ten, we usually do get an explanation.

Mr. McConnell: Yes.

Mr. Bollenbach: That is why we direct them to provide a letter requesting the extension with some basis.

Mr. Astorino: We will hold them over.

7. **Vieldhouse #2 Subdivision** – Letter from Pietrzak & Pfau Engineering, dated 4/7/08 – in regards to the Vieldhouse #2 Subdivision requesting a 6-Month Extension on Re-Approval of Final Approval for a proposed 2-Lot subdivision, SBL # 53-1-39. Re-Approval of Final Approval was granted on, 11/7/07. *There is no explanation in the applicant's 6-month extension request letter on what is the holdup.* The 6-Month Extension becomes effective on, 5/7/08.

Mr. McConnell: I have the same objections.

Mr. Astorino: We will hold them over. Is everyone in an agreement with that?

Mr. Showalter: Ben, where is this?

Mr. Astorino: It is located off Brady Road.

8. **Grill Subdivision** – Letter from Chris Guddemi from LAN Associates addressed to the Planning Board, dated 4/25/08 – in regards to Grill Subdivision SBL # 29-1-71 & 72 requesting “***Re-Approval***” of Final Approval of a proposed 4-Lot cluster subdivision. Final Approval was granted on 5/16/07. Grill received a 6-Month extension on Final Approval, granted on 11/7/07 effective on 11/16/07. Re-Approval of Final approval will become effective on 5/7/08, subject to the conditions of Final Approval granted on 5/16/07. *The applicant is requesting more time to address the conditions of the final approval. The applicant also wishes to extend the use of the accessory structure as a temporary residence for the duration of the re-approval. The applicant has encountered some construction delays during the renovation of the principal structure.*

Mr. McConnell: Do we know if the applicant is occupying the temporary residence?

Zen Wojcik: Not yet.

Mr. Astorino: She is not. What is she looking for? Is she looking for another 6-month of this Re-approval?

Zen Wojcik: It was my understanding that she was having some difficulty with contractors in the big house the principal residence. They haven't moved into the secondary house.

Mr. Astorino: What was the duration of the approval? Was it 6-months?

Mr. Bollenbach: It has been for 6-months. It breathes new life into the application. It is good for 6-months. Then, they could request an additional 6-month extension from thereon.

Mr. McConnell: Could we ask for an inspection of this accessory building to be assured that it is not being used?

Mr. Bollenbach: I don't know if it is being used right now. The condition of the approval was that the accessory building be abandoned. I think there was a map note on it. I don't remember what the date was off the top of my head. I think maybe it was January of 2009.

Zen Wojcik: It was 2009 or something like that.

Mr. Bollenbach: It was either January or February 2009 something along that, regarding that building must be vacated and verified by the Building Inspector that it has been vacated.

Zen Wojcik: Right now, it is a legal house. It is a house on a lot.

Mr. McConnell: So, could it be occupied right now?

Zen Wojcik: Legally, yes. It is a legal house on a lot.

Mr. McConnell: My concerns have been addressed.

Mr. Astorino: So, we could grant this Re-approval.

Mr. Singer: I don't think it was until January 2009. I think that it was in 2008 that it expired. I think the date has passed.

Mr. Astorino: Did we give an extension?

Mr. Showalter: We gave them an extension to my recollection.

Mr. Astorino: I thought we had done that. This is for a Re-Approval.

Mr. Singer: Zen just told us that she is having difficulty with the contractor. She hasn't even started yet.

Mr. Astorino: There has to come a point in time where she has to get a contractor to get this done.

Mr. Singer: I think this applicant will go on forever.

Mr. Bollenbach: Then, she would go to court and come back before the Planning Board. That is all we could do.

Mr. Astorino: So, we will give her this Re-approval.

Mr. Singer: So, we have to keep giving her extensions.

Mr. Bollenbach: She is requesting Re-approval. She had a basis for it. No, we don't have to continue giving her extensions. It is still the same Zoning Code that we approved it under. The circumstances appear to be similar. The time for completion of construction has not yet expired. I don't see any basis to deny it.

Mr. Astorino: We should give her this Re-approval.

Mr. McConnell: Does this Re-approval add time onto her time for the construction?

Mr. Bollenbach: No. It does not.

Mr. McConnell: As long as that is clear...

Mr. Singer: Are you sure that the time for construction has not expired?

Mr. Bollenbach: I believe so.

Mr. Astorino: John, have you looked at this?

Mr. Bollenbach: Yes. Zen and I looked at it last week.

Zen Wojcik: Yes. We did get something from them last week. I will send an email out to the Board tomorrow regarding this matter.

Mr. Showalter makes a motion on the Grill Subdivision application, granting ***“Re-Approval”*** of Final Approval of a proposed 4-Lot cluster subdivision, situated on tax parcel S 29 B 1 L 71 and L 72; parcels located on the westerly side of Distillery Road 750 feet north of Pine Island Turnpike, 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 5/16/07. (See attached).

Re-Approval of Final approval will become effective on 5/7/08.

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

Mr. Singer: In hearing that, we gave her approval in May 2007. I think we gave her 8 or 9 months to complete the project.

Mr. McConnell: I recall 9 months.

Mr. Singer: It is past that.

Mr. Kowal: But, she asked for an extension.

Mr. Bollenbach: When we did the extension, it was continued. There was additional time provided when the extension was granted.

Mr. Astorino: Is that on the map now?

Mr. Bollenbach: Yes.

Mr. Kowal: She had asked for one extension.

Mr. Astorino: I recall that we had given her an extra time. On this note, now that we have given this Re-approval, I think when another one comes up, there should be something concrete here.

Mr. Singer: This could go on forever.

Mr. Astorino: We can't have that.

Correspondences:

1. NYSDEC – Notice of Complete Application for Warwick Community Ambulance Service Building located on 146 South Street Ext., Warwick, dated 4/25/08.

Mr. Singer: What is that all about?

Connie Sardo: I don't know. Mike gave that to me to give to the Planning Board. Every official in the Town and Village was to have a copy of this.

Mr. Astorino: We have that in our packets.

Zen Wojcik: Carl, I think the Town is an interested party.

Mr. Astorino: Yes. That is for our information.

Mr. Singer: Ok.

2. Letter from Mr. and Mrs. Kevin T. cote, dated 4/14/08 addressed to the Planning Board in regards to the Giovannoli Subdivision (SBL # 12-3-33).

Mr. Astorino: We have that letter in our packets.

3. Letter from John Batz, Building Inspector, dated 5/1/08 addressed to Anahita Kopet (SBL # 72-3-15.2) in regards to a Stop Work Order for work being done without site plan final map being finalized.

Mr. Astorino: We have that in our packets.

4. Innovations in Decentralized Wastewater Management to be held on Friday, May 16, 2008 from 8:30 a.m. – 1:30 p.m., located at the Lycian Centre in Sugar Loaf. This is being sponsored by Tectonic, O.C. Citizens Foundation, and OCWA.

Mr. Astorino: That is in our packets.

Mr. Singer: Ben, could I get some clarification on what happened with the Blandi application?

Mr. Astorino: He sent us a letter. You have the letter in your packet. He pulled off the agenda.

Mr. Singer: Did he say why?

Mr. Astorino: He sent this letter in. I actually received a call from someone that had done his irrigation asking me why did they pull off. I told them that I could not answer that. I told them to speak to Mr. Blandi. I told them that we received comments from a resident and we considered them. I know that the Building Inspector went out there. I think that he got upset because the project was taking too long. In my opinion, I don't think they were crazy comments. They could have been addressed. It is his deal.

Zen Wojcik: I believe we will be receiving another letter from them. Once we get that, we will give that letter to the Board.

Mr. Astorino: I don't think he is happy with us. It is his call. If he wants to pull it off, he could do that.

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?

Laureen Henry: I live in Kings Estates. I understand that they will be building some houses behind our house. I don't know if it is in Chester or Warwick.

Mr. Astorino: Those houses are in Chester. Behind Kings Estates is the Town of Chester. It is either Vanderweer or Lewis.

Zen Wojcik: Yes. It is Vanderweer.

Laureen Henry: I wasn't there. I didn't get a notice. My neighbor told me about this. Ok, it is in Chester.

Mr. Lipman: I just came from that meeting in Chester. That public hearing started at 7:30 p.m. It was over by 8:10 p.m.

Laureen Henry: They told me that it was to be here.

Mr. Lipman: No.

Mr. Astorino: No. That public hearing wasn't to be held here.

Mr. Lipman: Did you have anything bad to say about that subdivision?

Laureen Henry: No.

Mr. Astorino: You could talk to Mr. Lipman about it outside. This is the Town of Warwick. We have enough.

Laureen Henry: Ok.

Mr. Bollenbach: There was a notice to the Town Board.

Laureen Henry: I thought over here was Chester.

Mr. Astorino: It is in the Town of Chester.

Zen Wojcik: They are located down the road on Kings Highway.

Mr. Showalter: Town of Chester Town Hall is located about 3 miles down Kings Highway.

Lauren Henry: Ok. Thank you.

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

Mr. Showalter makes a motion to adjourn the May 7, 2008 Planning Board meeting.

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