

TOWN OF WARWICK PLANNING BOARD

May 19, 2010

Members present: Vice Chairman, Roger Showalter
Russell Kowal, Dennis McConnell
Carl Singer, Beau Kennedy
Laura Barca, HDR Engineering
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, May 19, 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:

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. Previously discussed at the 4/21/10 Planning Board meeting.

Representing the applicant: Jeremy Valentine & Michael Tracy from Lehman & Getz Engineering. Bob Krahulik, Attorney. Donald Fisk and Jane Pierce, Applicants.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Applicant to provide copies of Home Owner's Association road maintenance agreement.
4. A rendering for the proposed house has been provided to the planning board; this rendering has been sent to the Architectural Review Board (ARB) for consideration.
5. Soil erosion control measures have been provided via staked hay bales because the existing soils are not conducive to installing a silt fence. The Applicant should add a note to the plan stating that additional soil erosion control measures will be employed if necessary to protect the lake from soil erosion.
6. Applicant's Engineer is requesting OCDOH if Sheet 1, Note 17 should be removed from the plan.
7. Surveyor to certify that iron rods have been set at all property corners.
8. 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).

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

The following comment submitted by the Conservation Board:

Donald Fisk – None submitted.

The following comment submitted by the ARB, dated 5/19/10:

Donald Fisk - We would like to see the proposed elevations of all four sides, particularly how the applicant intends to integrate the existing "porch" area with the new construction, which we believe from the site plan and drawings he intends to retain. We will withhold comment until we receive those drawings.

Comment #1: Planning Board to discuss SEQRA.

Mr. McConnell: The following SEQR comment has been prepared by Mr. Ted Fink, dated 5/19/10: "The Planning Board has already declared Lead Agency for the SEQR review of the Site Plan application. There is no action needed at tonight's meeting. A letter was recently received from the Greenwood Lake Commission. The Commission's comments are reasonable, make good sense from a planning standpoint, and they should be incorporated into the applicant's next submission to the Planning Board. HDR has comments that will affect the Planning Board's SEQR determination and their comments should likewise be incorporated into the next submission. We are not yet in receipt of comments from the ARB."

Connie Sardo: We received the ARB comments today.

Mr. Kowal: We have a comment from the ARB, dated 5/19/10 for the record.

Comment #2: Applicant to discuss project.

Jeremy Valentine: It is an existing 2-bedroom house. We have designed a new septic. He is looking to build a new house as much as he could on top of the existing footprint of the house that he has. He will need to put in a new well. A new well has been drilled. That is what we are looking to do.

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

Mr. Bollenbach: We could just go onto the other comments.

Comment #3: Applicant to provide copies of Home Owner's Association road maintenance agreement.

Bob Krahulik: Presently the roads are maintained by the Forest Park Homeowners Association. There is no formal road maintenance agreement on record with the County Clerk. The roads are professionally managed. Joan Cerone is President of the Forest Park Association. They hire contractors throughout the year to maintain the road. I don't see where there would be a need for a formal document when there is already a formal Homeowner's Association in existence.

Mr. Bollenbach: We would like to see some documentation regarding that formal Homeowners Association that you have referred to many times. If there is no Homeowner's Association, he should propose a Homeowners Association and some use and maintenance agreements. Perhaps, the Association would join on with Mr. Fisk. The Board would like to have some type of a formal documentation establishing the rights and the obligations to maintain common improvements.

Mr. Krahulik: How many homes are in the Forest Park?

Mr. Fisk: When I receive the bills from them, they talk about 75 properties.

Mr. Krahulik: There are 75 properties in an existing community. I don't think it will be possible to negotiate a formal road maintenance agreement with 75 homeowners when you already have an existing Homeowners Association that is managing the roads.

Mr. Bollenbach: I suggest that you contact the Homeowners Association. You will need to get copies of their Bi-Laws and the Articles of Incorporation.

Mr. Krahulik: That I could do.

Mr. Bollenbach: Let's start with that. That is what we have been looking for the last 1-1/2 months since this application has come before us. The Board has entertained other applications specifically regarding site plan approval within Greenwood Lake Designated Protection Area. The one Planning Board application that comes to mind is the Bozzone project, which is also located on a private road. There was a Homeowners maintenance agreement that was crafted and everyone signed onto it.

Mr. Krahulik: Where is the Bozzone property located?

Mr. Bollenbach: It is located on Greenwood Lake. You could contact Connie. She will give you the SBL. There were many other applications that we had within Designated Protection Areas not necessarily in Greenwood Lake. We had an application before us located out on California Road that was in a Designated Protection Area that had no agreements previously, but the agreements were crafted to set forth the obligations for maintenance. Right now, if you have an ongoing organization, this might be a great time to formalize it so that everyone gets on board so that the Board could be comfortable that these roads would be maintained in the future to insure safe adequate access year round.

Mr. Krahulik: I could probably demonstrate the existence of a formal organization. I would like to discuss the ongoing dispute with Mr. Fisk and the Homeowners Association. I would like to discuss it in detail tonight.

Mr. Bollenbach: I don't know if the Board is really concerned about the past history. We are looking to go forward.

Mr. Krahulik: The history is important. There has been 30 years of ongoing litigation with the Homeowners Association and Mr. Fisk. They are not going to be in a very cooperative mood. They might be willing to provide the underlying documentation showing the formal existence of the Homeowners Association. There is no formal road maintenance agreement. I would suggest if you asked a property owner who is simply trying to renovate

a home to negotiate a road maintenance agreement with 75 other property owners, I think that places an undue burden on one homeowner.

Mr. McConnell: We don't know if it would have to be negotiated with all 75 property owners. It may be possible that all he would have to do is negotiate it with the Homeowners Association. Perhaps the power to negotiate that agreement has been delegated to the Homeowners Association, to the representatives, or to the Board of Directors. It might not be necessary to go to all 75 homeowners. Let us take a look at those documents to see what the facts are before we start speculating 75 people to get them all to agree.

Mr. Showalter: I think it would be difficult to get them all to agree.

Mr. McConnell: I don't know if it would or not. They may be reasonable people. I assume that they would be reasonable people.

Mr. Showalter: That may be so. Have we ever requested a Road Maintenance Agreement from others at this Forest Park Association in the past?

Mr. Bollenbach: I am not familiar with the Forest Park Association. I don't know if we had any others from there. I was saying that we had other site plans that border Greenwood Lake that required the applicant to provide a Road Use Maintenance Agreement for private roads.

Mr. McConnell: John, what you are saying is it not with all what we requested in the past of similarly situated applicants? Is that correct?

Mr. Bollenbach: Correct.

Mr. Showalter: John, would the Homeowners Association document be sufficient for the Board and its Professionals if they do not have any such "Road Maintenance Agreement"?

Mr. Bollenbach: I don't know. I haven't seen the documents. If you take a look at Mr. Krahulik's letter that the Planning Board received just this afternoon, dated 5/18/10, the request seems logical since he states that the Forest Park Association presently maintains the roads. If there is a Forest Park Association, I would like to see that documentation. Maybe it does set forth the rights, obligations, who is a member, and the procedures that are involved to presently maintain the road. Is there some type of an agreement?

Mr. Krahulik: There is no agreement.

Mr. Bollenbach: I don't know that.

Mr. Krahulik: I am telling you that there is no agreement.

Mr. Bollenbach: Is there no Forest Park Association?

Mr. Krahulik: Now, I would like to discuss the litigation between the Fisk family and the Forest Park Association.

Mr. Singer: Is Mr. Fisk part of the Forest Park Homeowners Association? Is he a member?

Mr. Krahulik: No. He has not paid dues to the Forest Park Association.

Mr. Singer: Could he join the Homeowners Association and become part of their organization? There must be something in that agreement.

Mr. Krahulik: He could. Let me describe the history of the Fisk relationship with the Homeowners Association. 30 years ago The Forest Park Homeowners Association sued Mr. Fisk to enforce what they believed to be an obligation to join the Homeowners Association which is responsible for road maintenance, the maintenance of the beach that all the property owners have the use of, and other maintenance of association property. The matter was tried before the Town Justice Luke Charde at the time. I submitted a copy of the opinion. Judge Charde reached the determination that there was absolutely no obligation of part of the Fisk family to join and contribute to the Homeowners Association.

Mr. McConnell: Did he give a reason for that?

Mr. Krahulik: He did. There is a 4-page written opinion that had been submitted.

Mr. McConnell: I am not asking for a Readers Digest version of it. I will read the decision myself. I was just handed the decision now.

Mr. Singer: I assume because this is a part time residence.

Mr. McConnell: Let us not assume anything.

Mr. Krahulik: In essence, he said when you review the documentation in the Fisk chain of title, there is no obligation on the part of the owner of the Fisk property to contribute to the Homeowners Association. Case Law maybe different today. I believe it is different. 30-years ago, that was the decision of the court. The Homeowners Association did not appeal that decision. Right now, the Homeowners Association is stuck with that decision. 10-years after that decision, they sued other property owners. I don't have those decisions. But, I know the facts underlying those particular properties. The court found that those property owners were required to contribute towards road maintenance. Relying on other cases that did not involve the Fisk property or Mr. Fisk, they felt that they had won. Now, Mr. Fisk was obligated to pay and join the Homeowners Association. In 2008, they sent him a collection letter looking to recover 20 years worth of common charges. That was when I first got involved in the case.

Mr. McConnell: I am not quite sure what if any of that has to do with us in our request to get information.

Mr. Krahulik: I will get to that. In the last 2 years, correspondences have been going back and forth between the Homeowners Association and me. Mr. Fisk is willing to contribute towards the annual charges from this point in time and going forward. But, they are demanding 20 years worth of common charges in the amount of \$12,000.00 plus another \$4,000 in legal fees.

Mr. McConnell: It sounds like a perfect situation for negotiation.

Mr. Krahulik: Except, we are here before you. You are insisting that we approach the Homeowners Association and get certain things. They feel that they have us over a barrel. They are demanding that we pay 20 years worth of arrears in order to cooperate with us. You are asking me to approach the Homeowners Association to negotiate with them. They are telling me to pay them \$16,000.00. Then, they would negotiate with us. We are between a rock and a hard place when it comes to working in good faith with the Homeowners Association to provide you with what you are looking for.

Mr. Bollenbach: Maybe, you could provide me with a written request to the Homeowners Association requesting the Bi-Laws, Articles of Incorporation, etc...

Mr. Krahulik: I believe I could get that.

Mr. Bollenbach: If you are unsuccessful with that, then I will pursue on the Board's behalf.

Mr. Krahulik: In my correspondence with the Association which you have in front of you now, you will see that we had offered to pay the common charges going forward. They have ignored our offer. They have not picked up the phone to negotiate a discount of what they are demanding. They haven't said yes, that they understand there is litigation. There has been nothing. They want a check in the amount of \$16,000.00.

Mr. McConnell: Ok. John has suggested how you should proceed at this point.

Mr. Krahulik: That we will get. I also want to respond to the suggestion that we approach the Homeowners Association and try to negotiate something. They are not in a negotiating mood with us. I think it is important for you to know that. I am not going to be successful in obtaining a Road Maintenance Agreement.

Mr. McConnell: I rarely negotiate successfully when I go into it thing that I will not be successful.

Mr. Krahulik: I have tried. You already have some correspondence in front of you showing my attempt.

Mr. McConnell: Ok. Let's move it down the line.

Comment #4: A rendering for the proposed house has been provided to the planning board; this rendering has been sent to the Architectural Review Board (ARB) for consideration.

Jeremy Valentine: Yes.

Laura Barca: Yes.

Comment #5: Soil erosion control measures have been provided via staked hay bales because the existing soils are not conducive to installing a silt fence. The Applicant should add a note to the plan stating that additional soil erosion control measures will be employed if necessary to protect the lake from soil erosion.

Jeremy Valentine: We will add the note to the plans.

Comment #6: Applicant's Engineer is requesting OCDOH if Sheet 1, Note 17 should be removed from the plan.

Jeremy Valentine: We have a verbal ok from Greg Moore. We don't have it in written form yet. We will remove the note.

Mr. Showalter: Ok.

Comment #7: Surveyor to certify that iron rods have been set at all property corners.

Jeremy Valentine: Will do.

Comment #8: 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).

Jeremy Valentine: I talked about this to the Planning Board's Engineer 2 days ago. We will revise the note on the detail. This wall will be 2-1/2 feet high. It will not need any Building Department approval.

Mr. Showalter: Laura, are you ok with that?

Laura Barca: Yes.

Comment #9: A dye test will need to be conducted after the new septic system has been installed.

Laura Barca: We had also discussed that. It is a very difficult situation because it is a unique septic system. The septic system is kind of included behind these retaining walls. What I had done was place a call to Advance Testing to see if we had done a dye test and the dye leached through the wall, it doesn't necessarily indicate a failure. The uniqueness of the system is that it has an aerobic digester, which would not digest the dye. The dye would pass through the system untreated. Then, it would go into the reduced area of the soil leach system which is being accepted by the OCHD. If an actual leaching coming from the house went through those two treatment systems, it would be treated in both of those systems whereas the dye is not being treated in either one. What I am trying to find out from Advance Testing, is if we do a dye test and find the dye on the outside is seeping through the wall; we could do some kind of analysis on that water to see if it is clean water or to see if it has e-coli or some kind of bacteria in it.

Mr. McConnell: Are you suggesting that there needs to be another protocol for this type of a system than for the systems that we are accustomed to?

Jeremy Valentine: The issue is that it is a septic where you can't meet today's code. It is an existing house. You are doing the best you can with what you have.

Mr. McConnell: Are you sure, you want that on the record? It is a system that cannot meet today's code. You want us to approve it.

Jeremy Valentine: That is why the OCHD does not approve these kinds of septic systems. What they do is accept these kinds of septic systems. That is the terminology that you would see on these plans or any plans that are accepted by the OCHD. Almost any lot in Greenwood Lake cannot meet today's Building Code. If a house wasn't there, you would not be able to build a house with today's codes because you would not be able to meet the separation distances. That is why we are doing the best we can. The aerobic unit would clean up the water. You wouldn't have the area that you would need to do a proper dye test with the proper leachfield. There are septic systems all over the Greenwood Lake area that are even new septic systems with an aerobic treatment unit with Eljen infiltrators, perforated pipe, etc... You could still have the water leaking out of the wall and still working properly. That water would be clean water, but it could still seep out of the fill from the ground because you wouldn't have the proper space required for a current septic.

Mr. McConnell: Do we as a matter of course with the system that Jeremy is describing take water samples and test? Then, I am not comfortable with approving any of these systems. We would either have to change the protocol or find a system that works.

Jeremy Valentine: That is what an aerobic system is for. It would have to be a class 1 approved aerobic unit which meets the EPA Codes.

Mr. McConnell: I have no doubt that it does that. What I am saying is how do we know that it does it if we are not going ahead and testing the water?

Jeremy Valentine: That unit is certified by an engineer and accepted by the State.

Mr. McConnell: The design is certified. It would not be that unit.

Mr. Showalter: With today's technology, the OCHD finds this acceptable to replace with what was existing. Therefore, logic would have it that it would probably work better than the old way.

Mr. Bollenbach: The Town also requests a subsequent dye test to see if the fill material was the appropriate material and if it was installed properly.

Mr. Showalter: Right. That is why we have comment #9.

Mr. Bollenbach: That is why we have to come up with Laura's what if. Let us take a look at it to see if there is a protocol to test any leaching coming out if in fact that is the case.

Laura Barca: Right.

Jeremy Valentine: The OCHD doesn't require a dye test. You do go back and test the fill with the OCHD. They want to witness the fill. They want to make sure it is the proper field.

Mr. Showalter: This is something that the Town of Warwick is requiring you to do.

Mr. McConnell: I just want to be sure that we would be investigating that there is a testing protocol that could be carried out if indeed dye makes an appearance.

Laura Barca: Yes. I already have called the Lab. They haven't called back yet.

Mr. McConnell: Ok.

Mr. Showalter: We need to add a comment #10, payment of all fees.

Jeremy Valentine: Yes. I would like to request to be set for a public hearing.

Mr. McConnell: John, do you think we are ready for that without having documentation?

Mr. Bollenbach: We are waiting for other documentation that the Board needs to review.

Mr. Showalter: We will wait until we get the other information. Get the information and submit that to the Planning Board.

Jeremy Valentine: Ok. Thank you.

Paul and Melissa Flanagan

Application for Sketch Plat Review of a proposed 2-Lot (**MINOR**) subdivision, situated on tax parcel S 1 B 1 L 89; parcel located on the southern side of Liberty Corners Road 600± west of Furman Lane, (part of the Blueberry Hills II Subdivision), in the MT zone, of the Town of Warwick.

Representing the applicant: Jeremy Valentine and Michael Tracy from Lehman & Getz Engineering. Paul Flanagan, Applicant.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. The Applicant has submitted the previous Blueberry Hills II subdivision plan (that did not receive final approval). This plan satisfies the requirement for showing the possible build-out for the large tract (Lot 1).
4. There is currently no development within 300-ft of the proposed well, septic, house, and driveway being proposed. There are no existing wells and septic systems within 300-ft of the proposed well and septic system. Blueberry Hills II subdivision, albeit outdated soil information, demonstrated that this area could support five additional homes, whereas only one house is being proposed.
5. A note must be added to the drawing stating that Lot 1 is not for building purposes at this time. Planning Board approval will be required, including but not limited to soil test witnessing, wetland and stream investigation, and bio-diversity compliance with the Town Code even if only one home is proposed in the future.
6. The Applicant engineer must submit The Town of Warwick Design Professional Sewage Disposal Certification Form for this project.
7. The declaration information for the Agricultural Notes for projects within 2000-ft of an agriculturally zoned district or within the agricultural protection overlay district will need to be shown on the drawing.
8. Surveyor to certify that iron rods have been set at all property corners.
9. Payment of parkland fees.
10. Payment of all fees.

The following comment submitted by the CB:

Paul & Melissa Flanagan – None submitted.

The following comment submitted by the ARB, dated 5/19/10:

Paul & Melissa Flanagan - no comment at this time. It is our understanding that owners of the parcel being subdivided off will need to appear before the Planning Board for approval for construction or further subdivision. At that time, the ARB would like to review the plans for the proposed house/s. And, at that time, we would like to see elevations for all four sides of the home/s being proposed, as well as true footprints of the proposed structures, to scale.

Comment #1: Planning Board to discuss SEQRA.

Mr. McConnell: The following SEQR comment has been prepared by Mr. Ted Fink, dated 5/19/10: "This is an Unlisted Action based upon a review of the Short Environmental Assessment Form submitted by the applicant. The County DPW is an Involved Agency and they will make their own SEQR determination on the proposed access onto Liberty Corners Road. I have prepared a draft Lead Agency Resolution for the Board to begin the SEQR process tonight. At the Planning Board's workshop meeting on 5/10, we discussed the need for a Biodiversity Assessment since the property was located in the Biodiversity Conservation Overlay (BC-O) District and the need to address Segmentation, since the property was previously subject to a six lot subdivision under the 1989 Zoning Law. There are State Classified streams on the site and there may also be Federal Jurisdictional Wetlands on the site. Shortly after the Planning Board workshop, I discussed with John Bollenbach the applicant's current plans for the property. My understanding is that they have no plans to create a new building lot at this time. If there is no construction associated with the proposed Subdivision and the applicant is willing to have a Subdivision map note that reflects this (of course subject to John Bollenbach's review and approval), then it may be appropriate to postpone any field studies until such time as construction is proposed. My suggestion is that any such Subdivision map note must require the applicant to return to the Planning Board for Site Plan approval and a new SEQR determination if a Building Permit is requested for the proposed Lot No.1".

Mr. Kowal 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: Flanagan Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Paul & Melissa Flanagan for a \pm 50 acre parcel of land located at 27 Furman Lane, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 4/28/10 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.

Comment #2: Applicant to discuss project.

Jeremy Valentine: It is an existing 50-acre lot with an existing house on it. We are looking to subdivide the property into 2 lots. There is no construction proposed on the 2nd larger lot. The 1st existing lot with a building on there would remain on that lot. That would stay the same as it is.

Comment #3: The Applicant has submitted the previous Blueberry Hills II subdivision plan (that did not receive final approval). This plan satisfies the requirement for showing the possible build-out for the large tract (Lot 1).

Comment #4: There is currently no development within 300-ft of the proposed well, septic, house, and driveway being proposed. There are no existing wells and septic systems within 300-ft of the proposed well and septic system. Blueberry Hills II subdivision, albeit outdated soil information, demonstrated that this area could support five additional homes, whereas only one house is being proposed.

Mr. Bollenbach: It is not being proposed. There is no house being proposed at this time.

Mr. Showalter: Ok. On comment #4 needs to be revised to state "whereas no house is being proposed".

Comment #5: A note must be added to the drawing stating that Lot 1 is not for building purposes at this time. Planning Board approval will be required, including but not limited to soil test witnessing, wetland and stream investigation, and bio-diversity compliance with the Town Code even if only one home is proposed in the future.

Jeremy Valentine: We will add that note to the plans.

Comment #6: The Applicant engineer must submit The Town of Warwick Design Professional Sewage Disposal Certification Form for this project.

Jeremy Valentine: Will do.

Mr. Bollenbach: Would that be necessary if no construction is proposed?

Laura Barca: The applicant's Engineer had already done their own perc tests. It wasn't witnessed by the Town. They already have the means to do this.

Mr. Bollenbach: Why would that even be relevant if they would have to come back for site plan approval and everything else at a later date? It would be up to the Board.

Mr. McConnell: John, are you concerned if they submit this now and if it doesn't come back?

Mr. Bollenbach: For instance, they already have an approved septic. But, no, they don't have an approved septic without Planning Board approval. If you want the Planning Board approval for it, do it now. If you don't want to do it now, they could do it later. It would have to be one way or the other. You can't have it both ways.

Mr. McConnell: I would say strike comment #6.

Paul Flanagan: Yes.

Mr. Showalter: Ok. We will strike comment #6.

Mr. McConnell: Paul, we just saved you some money.

Paul Flanagan: Thank you.

Comment #7: The declaration information for the Agricultural Notes for projects within 2000-ft of an agriculturally zoned district or within the agricultural protection overlay district will need to be shown on the drawing.

Jeremy Valentine: We will do that.

Comment #8: Surveyor to certify that iron rods have been set at all property corners.

Jeremy Valentine: Will do.

Comment #9: Payment of parkland fees.

Jeremy Valentine: Will do.

Comment #10: Payment of all fees.

Jeremy Valentine: Will do.

Mr. Kennedy makes a motion to set the Paul and Melissa Flanagan application for a Final Public Hearing at the next available agenda.

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

Paul Flanagan: Is a public hearing necessary?

Mr. Bollenbach: Yes. You are creating an additional lot.

Other Considerations:

1. **Stanhewicz & Newsom Lot Line Change** – Letter from William Youngblood, PLS., dated 4/20/10 addressed to the Planning Board in regards to the David Stanhewicz & Robert Newsom Lot Line Change – requesting a 6-Month Extension on Final Approval of a proposed Lot Line Change, situated on tax parcels S 24 B 1 L 42.25, 42.26, & 42.27; parcels located on the southwestern side of Walling Road 1300 feet southwest of Newport Bridge Road, in the RU zone. Final Approval was granted on 11/4/09. *The applicant has stated that the declarations are currently under review and have not been finalized and signed off on. In addition due to the current economic conditions the clients need more time to find funding to continue with the process.* The 6-Month Extension becomes effective on, 5/4/10.

Mr. McConnell makes a motion on the Stanhewicz & Newsom application, granting a 6-Month Extension on Final Approval of a proposed Lot Line Change, SBL # 24-1-42.25, 42.26, & 42.27. Final Approval was granted on 11/4/09. The 6-Month Extension becomes effective on, 5/4/10.

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

2. **Warwick Isle Subdivision** – Letter from Kirk Rother, Engineer, dated 4/29/10 addressed to the Planning Board in regards to the Warwick Isle Subdivision – requesting (2) 6-Month Extensions on Preliminary Approval of a proposed 30-Lot + 3-Affordable Homes subdivision, situated on tax parcel SBL # 3-1-6.21; parcel located on the northern side of Merritts Island Road at the intersection with C.R. #1, in the SL zone. Preliminary Approval was granted on, 6/21/06. *The project has received OCHD approval and their office is currently in the process of having sub-base soil testing performed for the roadway, per Town of Warwick requirements. The applicant anticipate this work being completed within the next 4 weeks, after which the project will be re-submitted to the PB in order to start the process of obtaining final approval.* The 7th 6-Month extension becomes effective on, 12/21/09. The 8th 6-Month Extension becomes effective on, 6/21/10.

Representing the applicant: Kirk Rother, Engineer.

Mr. McConnell: Why, are we doing something retroactive?

Kirk Rother: We keep a spreadsheet of when these projects receive approvals. My secretary was preparing the Warwick Isle's application for final approval and thought that they did not need to go for any more extensions on the preliminary approval. It was a misunderstanding on my secretary's part and mine. In the next few weeks, we will be submitting Warwick Isle for final approval. They are almost ready to go and are anxious to do so.

Mr. McConnell: Ok. No harm done.

Mr. McConnell makes a motion on the Warwick Isle application, granting a 7th & 8th 6-Month Extensions on Preliminary Approval of a proposed 30-Lot + 3-Affordable Homes Subdivision, SBL # 3-1-6.21. Preliminary Approval was granted on, 6/21/06. The 7th 6-Month Extension becomes effective on, 12/21/09. The 8th 6-Month Extension becomes effective on, 6/21/10.

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

3. **BCM Development** – Letter from Tony Ciallella, BCM Development Company, dated 5/3/10 addressed to the Planning Board in regards to the BCM Subdivision – requesting a 6-Month Extension on 2nd Re-Approval of Final Approval of a proposed 40-Lot Subdivision plus 1-Lot for the well and 1-Lot of open space, situated on tax parcel SBL #44-1-133; parcel located along the northerly side of NYS Route 17A at the intersections of Ketchum Road and Pumpkin Hill Road, in the SL zone. Final Approval was granted on, 11/21/07. 2nd Re-Approval of Final Approval was granted on 11/4/09 became effective on, 11/21/09. *This request is being made due to the depressed real estate and economic market conditions.* The 6th Month Extension on 2nd Re-Approval of Final Approval becomes effective on, 5/21/10.

Mr. McConnell: The applicant requested 180-day extension. They did not request a 6-month extension. Note to applicant that it is a 6-month extension on 2nd Re-Approval of Final Approval.

Mr. McConnell makes a motion on the BCM Subdivision application, granting a 6-Month Extension on 2nd Re-Approval of Final Approval of a proposed 40-Lot Subdivision plus 1-Lot for the well and 1-Lot of open space, SBL # 44-1-133. Final Approval was granted on, 11/21/07. 2nd Re-Approval of Final Approval was granted on 11/4/09 became effective on 11/21/09. The 6-Month Extension on 2nd Re-Approval of Final Approval becomes effective on, 5/21/10.

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

4. **Vieldhouse #2** – Letter from Ryan McGuire, Pietrzak & Pfau, dated 5/4/10 addressed to the Planning Board in regards to the Vieldhouse #2 Subdivision – requesting a 6-Month Extension on 3rd Re-Approval of Final Approval of a proposed 2-Lot subdivision, situated on tax parcel SBL # 53-1-39; parcel located on northwestern side of Brady Road 2,200 feet northeast of Black Rock Road, in the MT zone. Final Approval was granted on, 11/1/06. The 3rd Re-Approval of Final Approval was granted on, 11/4/09. *The applicant is currently in the process of satisfying the conditions of final approval and has been in contact with the Planning Board's Engineer on satisfying the conditions. The final mylars and maps will be submitted soon for the Planning Board Chairman's signature.* The 6-Month Extension on 3rd Re-Approval of Final Approval becomes effective on, 5/4/10.

Laura Barca: Regarding the Vieldhouse Subdivision, I have been working with Ryan the applicant's engineer on this project. They are getting real close on finalizing everything. There was a comment regarding the drainage swale. I am waiting for a response on that. I should have that response by next week sometime.

Mr. McConnell makes a motion on the Vieldhouse #2 application, granting a 6-Month Extension on 3rd Re-Approval of Final Approval of a proposed 2-Lot subdivision, SBL # 53-1-39. Final Approval was granted on, 11/1/06. The 3rd Re-Approval of Final Approval was granted on, 11/4/09. The 6-Month Extension on 3rd Re-Approval of Final Approval becomes effective on, 5/4/10.

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

5. **Adele Grill Subdivision** – Letter from Adele Grill, dated 5/6/10 & Request for Extension Form, dated 5/12/10 addressed to the Planning Board in regards to the Grill Subdivision – requesting **3rd Re-Approval** of Final Approval of a proposed 4-Lot Cluster Subdivision, situated on tax parcels SBL # 29-1-71 & 72; parcels located on the westerly side of Distillery Road 750 feet north of Pine Island Turnpike, in the RU zone. The 2nd Re-Approval of Final Approval as amended, granted on 7/15/09 became effective on, 5/7/09. The 6th Month Extension was granted on 12/16/09 became effective on, 11/7/09. *The applicant has stated that due to the continuing depressed economy and the tight lending practices, she requests the need for the 3rd Re-Approval.* The 3rd Re-Approval of Final Approval becomes effective on, 5/7/10, subject to the amended conditions granted on 7/15/09.

Mr. Bollenbach: Connie, did John Batz go out and inspect the small house to see if it was still abandoned and if there were any other violations?

Connie Sardo: No. Mr. Batz is aware of it. He has not had the chance to go out yet.

Mr. Bollenbach: We will have to put the 3rd Re-Approval request on Hold until we get some information from John Batz the Building Inspector.

Mr. Showalter: Ok. We will put Adele Grill's 3rd Re-Approval request on the next work session for the Board to discuss and hear what Mr. Batz has to say about it.

6. Planning Board Minutes of 4/21/10 – Planning Board Minutes of 4/21/10 for Planning Board Approval.

Mr. Kowal makes a motion to Approve the Planning Board Minutes of 4/21/10.

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

Correspondences:

1. Letter from O.C. Legislature, Michael Pillmeier, Chairman, dated 4/23/10 – in regards to Referral Proposed Amendments to the OC Comprehensive Plan, Strategies for Quality Communities, adopted 2003.

Mr. Showalter: The Board has that correspondence in their packets.

Privilege Of The Floor For Agenda Items!!

Mr. Showalter: If there is anyone in the audience wishing to address any of the agenda items, please rise and state your name for the record. Let the record show no public comment.

Mr. Singer makes a motion to adjourn the May 19, 2010 Planning Board meeting.

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