

TOWN OF WARWICK PLANNING BOARD

June 2, 2010

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, June 2, 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.

**PUBLIC HEARING OF Paul and Melissa Flanagan**

Application for Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 1 B 1 L 89; parcel located on the southern side of Liberty Corners Road 600± feet west of Furman Lane (part of the Blueberry Hills II Subdivision), in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Paul Flanagan, Applicant.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Flanagan Public Hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: No comments at this time (05/19/10)
4. Architectural Review Board comments: No comments at this time (05/19/10)
5. OCDPW: Although comments have been received from OCDPW (05/14/10), there is no new driveway proposed at this time so those comments will have to be addressed when a driveway is proposed at some time in the future.
6. OCPD: GML letter dated 05/18/10 with two advisory comments: (1) modify property line so that all existing impervious area is included within the setback area and (2) decrease length of driveway for proposed lot.
7. 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.
8. The 9-1-1 information has not been added to the plans.

9. The proposed driveway, home, septic, and well should be removed from the plan and replaced with “Not for residential development at this time.”
10. 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.
11. Surveyor to certify that iron rods have been set at all property corners.
12. Payment of parkland fees.
13. Payment of all fees.

The following comment submitted by the Conservation Board, dated 6/2/10:

Paul & Melissa Flanagan – CB has no comments on this 2-lot subdivision.

The following comment submitted by the ARB:

Paul & Melissa Flanagan - None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has declared itself Lead Agency. It is an Unlisted Action. There were several issues under SEQR that needed to be addressed. We have discussed these issues at the Work Session. What I have done based upon the applicant placing a note on the subdivision plat that the proposed lot #1 is not to be a building lot. Since there is no construction associated with that, it would relieve the applicant from having to carry out any of the studies that were called for. One of which was the delineation of the wetland and the other one was because this is in a Bio-Diversity Conservation Overlay District to address a habitat assessment. The prior Blueberry Hills subdivision that was approved but the maps were never filed 20 years ago, does raise some issues of potential segmentation that the parcel was larger than the minimum lot size and that this is located in the MT Zone so therefore it could be re-subdivided. We do need to address the issue for potential segmentation. I have prepared a Draft Negative Declaration that does identify these issues. Any building permit that may be requested, the Building Department would need to be able to track that back to this approval to a map note. The map note would need to state that the applicant or the landowner would have to return to the Planning Board for site plan approval, which would invoke SEQR again. All of these issues would be dealt with at that time.

Comment #2: Applicant to discuss project.

Dave Getz: Ted has described most of it. It is 51 acres. We are proposing a lot of about 10 or 11 acres. The remainder of the property would not be built on. I have a question to ask regarding the layout. I was wondering if the Board would be agreeable to a slight change in the property line so the lot that has Flanagan's house, well & septic on it would be a little bit smaller. It would be 10.5 acres instead of 11 acres. It would leave a little more room for the remainder. If you are not in favor of that, then we could continue with the line that we have which continues straight across.

Mr. Astorino: I don't see any problems with that. Is the Board ok with that?

Mr. Kowal: Yes.

Mr. McConnell: I am ok with that as long as we have a representation that there are no specimen trees or anything along those lines.

Dave Getz: There is no construction proposed.

Mr. Astorino: If that is what the applicant wants, then that will be fine.

Comment #3: Conservation Board comments: No comments at this time (05/19/10).

Mr. Astorino: There are none.

Comment #4: Architectural Review Board comments: No comments at this time (05/19/10).

Mr. Astorino: There are none.

Comment #5: OCDPW: Although comments have been received from OCDPW (05/14/10), there is no new driveway proposed at this time so those comments will have to be addressed when a driveway is proposed at some time in the future.

Mr. Bollenbach: We could strike that comment. We could strike comments 1 through 5.

Comment #6: OCPD: GML letter dated 05/18/10 with two advisory comments: (1) modify property line so that all existing impervious area is included within the setback area and (2) decrease length of driveway for proposed lot.

Mr. Bollenbach: That is no longer applicable. We could strike comment #6.

Comment #7: 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.

Dave Getz: Yes.

Comment #8: The 9-1-1 information has not been added to the plans.

Dave Getz: We have requested that. We will put that on the plans.

Comment #9: The proposed driveway, home, septic, and well should be removed from the plan and replaced with "Not for residential development at this time."

Dave Getz: Yes. We will do that.

Mr. Bollenbach: We need to revise comment #9. Comment #9, should state as follows: "The proposed driveway, home, septic, and well for lot #1 should be removed from the plan and replaced with Not for residential development at this time without Planning Board approval". That will make it very clear that they could do it, but would need Planning Board approval.

Comment #10: 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.

Dave Getz; Will do.

Comment #11: Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: Ok.

Comment #12: Payment of parkland fees.

Dave Getz: Yes.

Comment #13: Payment of all fees.

Dave Getz: Ok.

Mr. Bollenbach: We need to add a comment #14. Comment #14 would state as follows; *revise lot line to Planning Board Engineer's specifications.*

Dave Getz: Ok.

Mr. Astorino: Do any Board members or Professionals have any comments? This a Public Hearing. If there is anyone in the audience wishing to address the Paul and Melissa Flanagan application, please rise and state your name for the record. Let the record show no public comment.

Mr. Showalter makes a motion for the Negative Declaration.

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

617.12(b)

**State Environmental Quality Review (SEQR)**  
Resolution Authorizing Filing of Negative Declaration

**Name of Action:** Flanagan Subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed two-lot subdivision, 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 4/28/10, 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. McConnell makes a motion to close the Public Hearing.

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

Mr. Showalter makes a motion on the Paul and Melissa Flanagan application, granting Final Approval for a proposed 2-Lot subdivision, situated on tax parcel S 1 B 1 L 89; parcel located on the southern side of Liberty Corners Road 600± feet west of Furman Lane (part of the Blueberry Hills II Subdivision, in the MT zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on June 2, 2010. Approval is granted subject to the following conditions:

1. 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.
2. The 9-1-1 information has not been added to the plans.
3. The proposed driveway, home, septic, and well for lot #1 should be removed from the plan and replaced with "Not for residential development at this time without Planning Board Approval."
4. 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.
5. Surveyor to certify that iron rods have been set at all property corners.
6. Payment of Parkland Fees.
7. Payment Of All Fees.
8. Revise Lot Line to Planning Board Engineer's specifications.

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

Dave Getz: Thank you.

Paul Flanagan: Thank you.

**Review of Submitted Maps:*****Verizon/Randall #3 North Warwick***

Application for Site Plan Approval for the construction and use to replace (6) Existing Antennas at the existing elevation and add (6) coax cables inside the existing camouflaged monopine wireless telecommunication tower and a 3'x5' fiber vault within the existing utility easement, situated on tax parcel S 19 B 1 L 47.2; project located on the southwestern side of Route 94 approximately 900 feet set back from Route 94 (Gary Randall property 675 ST HWY 94N), in the MT zone, in the Town of Warwick.

Representing the applicant: Steven Hutchinson, Tectonic Engineering.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board: No comments (letter dated 06/01/10).
4. Architectural Review Board: No comments (email dated 06/01/10).
5. OCPD: GML review pending.
6. §164-82A does not apply because it is not a new technology; it is an updated technology. §164-82B does apply because new equipment (3-ft x 5-ft cabinet) is being added; according to the code, this means that the application will require a special use permit by submitted by the tower owner (T-mobile/Omnipoint).
7. §164-86 requires that the special use permit for any wireless telecommunication facility shall be valid for five years – then the facility shall be removed or the special use permit renewed. A special use permit is required to be submitted by the tower owner (T-mobile/Omnipoint).
8. Discussion and pending comments from Wireless Telecommunication Facility Board about whether fencing needs to be relocated around this new 3-ft by 5-ft cabinet; Applicant has stated that fencing is not required for security reasons.
9. The Applicant is required to provide maintenance information related to annual structural inspections certified by a professional engineer in accordance with §164-83(B) of the Town Code; this information has not been provided for the existing structure.
10. The Applicant should provide letter of consent from the owner of the Towner (T-mobile/Omnipoint) stating that the applicant has the legal right to install and use the facility mount.
11. The site plan shown on Sheet C-1 does not show the existing property lines, setbacks, etc. It is impossible to know where the existing and proposed structures are located on the site. If it is not possible to show the scale of the property lines and the existing/proposed features, then an additional drawing should be included or the tax map information can be shown on Sheet T-1.
12. §164-78D states that the owner of the facility shall submit evidence of compliance with the FCC standards on a yearly basis to the Planning Board. If new, more restrictive standards are adopted by any appropriate federal or state agency, the facility shall be made to comply or continued operations may be restricted by the planning board.
13. §164-78A(1) and (4) requires camouflage for the proposed antenna and vault. It is unclear what the Applicant is proposing for camouflage.

14. The proposed equipment shelter is required to be architecturally compatible to existing structures and camouflaged by year-round landscaping in accordance with §164-79A(4)(b) and (c). Does the Planning Board feel that additional screening is required?
15. This site plan application requires proof that the Applicant is a licensed carrier; none was submitted §164-80B(1).
16. This site plan application requires a certified statement by a radio frequency technical expert that the installation of the proposed antennae, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent properties or with public safety telecommunications and is in accordance with FCC standards; this has not been provided §164-80B(2).
17. This application requires proof that the wireless telecommunication facility shall be fully automated and shall require only occasional maintenance of the facility and site §164-80B(4).
18. Since a special use permit is required to be submitted by the tower owner (T-mobile/Omnipoint), then the items identified in §164-80C will be required to be provided by T-mobile. If these items have previously been submitted to the Town, it is requested that additional copies be submitted for this application. If only minor changes have occurred, it is important that these items be specifically called out in a narrative letter.
19. Since a special use permit is required to be submitted by the tower owner (T-mobile/Omnipoint), then §164-81 (Collation Requirements) would be applicable.
20. 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.
21. Surveyor to certify that iron rods have been set at all property corners.
22. Payment of all fees.
23. A building department permit will be required after planning board approval and prior to construction.

The following comment submitted by the Conservation Board, dated 6/2/10:

Verizon/Randall #3 North Warwick – CB has no comments.

The following comment submitted by the ARB:

Verizon/Randall #3 North Warwick – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: We have received a short EAF from the applicant. It is an Unlisted Action. There are no other involved agencies. The Planning Board could go ahead and declared itself Lead Agency.

Mr. Showalter makes a motion for Lead Agency.

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

Resolution Establishing Lead Agency  
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Verizon/Randall #3/North Warwick

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application by Orange County-Poughkeepsie L.P. d/b/a Verizon Wireless for a ± 56.1 acre parcel of land located at Route 94, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 5/5/10 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.

Steven Hutchinson: We are swapping out 6 antennas.

Comment #3: Conservation Board: No comments (letter dated 06/01/10).

Mr. Astorino: There are no CB comments.

Comment #4: Architectural Review Board: No comments (email dated 06/01/10).

Mr. Astorino: There are no ARB comments.

Comment #5: OCPD: GML review pending.

Mr. Astorino: There are no OCPL comments pending at this time.

Comment #6: §164-82A does not apply because it is not a new technology; it is an updated technology. §164-82B does apply because new equipment (3-ft x 5-ft cabinet) is being added; according to the code, this means that the application will require a special use permit by submitted by the tower owner (T-mobile/Omnipoint).

Mr. Astorino: Does that mean they have to put that into their application through T-Mobile?

Laura Barca: T-Mobile has to renew their special use plan before the Planning Board could act on the Verizon/Randall #3 site plan. John, is that correct?

Mr. Bollenbach: Yes. We could get you some information on that. You could take a look in the Code. There are provisions that the site plan special use permit for the wireless facilities are only good for a 5-year period. After that, it requires a new Re-Approval.

Steven Hutchinson: We are actually doing this fiber cabinet for Verizon Communications.

Mr. Astorino: T-Mobile is the owner of the tower.

Mr. Bollenbach: That tower facility no longer has a special use permit.

Mr. Astorino: That has expired.

Connie Sardo: I spoke to T-Mobile last week. I have sent to T-Mobile the Site Plan Special Use application. I sent the application out to them either last Thursday or Friday.

Mr. Astorino: Ok.

Steven Hutchinson: If it is the fiber cabinet, that is not within their facility. It is right outside.

Connie Sardo: T-Mobile has agreed to it.

Mr. Bollenbach: They do have to make another application for the special use permit.

Steven Hutchinson: Ok.

Comment #7: §164-86 requires that the special use permit for any wireless telecommunication facility shall be valid for five years – then the facility shall be removed or the special use permit renewed. A special use permit is required to be submitted by the tower owner (T-mobile/Omnipoint).

Mr. Astorino: We discussed that.

Comment #8: Discussion and pending comments from Wireless Telecommunication Facility Board about whether fencing needs to be relocated around this new 3-ft by 5-ft cabinet; Applicant has stated that fencing is not required for security reasons.

Mr. Astorino: Laura, were they contacted?

Laura Barca: Yes. They are going to have comments. They haven't had a chance to get those comments over to us yet.

Mr. Astorino: Ok.

Comment #9: The Applicant is required to provide maintenance information related to annual structural inspections certified by a professional engineer in accordance with §164-83(B) of the Town Code; this information has not been provided for the existing structure.

Steven Hutchinson: I have a copy here to give you.

Mr. Astorino: Ok. That report goes to the Building Department.

Steven Hutchinson: It says that it was done on November 30, 2009.

Connie Sardo: I think we have received this before.

Laura Barca: I think we received it after I wrote the letter.

Mr. Astorino: Ok. Did the Building Department receive a copy of this report?

Laura Barca: I will make sure the Building Department gets a copy of this.

Mr. Astorino: Ok.

Comment #10: The Applicant should provide letter of consent from the owner of the Tower (T-mobile/Omnipoint) stating that the applicant has the legal right to install and use the facility mount.

Mr. Bollenbach: I have reviewed those. They were just draft documents. They do look acceptable. If we could make that a condition of the approval that at such time you do get them formalized, you could just provide them.

Steven Hutchinson: Verizon has executed the agreement. We are just waiting on T-Mobile.

Mr. Bollenbach: Ok. Once you get the executed agreement, please provide a copy to the Planning Board.

Steven Hutchinson: Ok.

Comment #11: The site plan shown on Sheet C-1 does not show the existing property lines, setbacks, etc. It is impossible to know where the existing and proposed structures are located on the site. If it is not possible to show the scale of the property lines and the existing/proposed features, then an additional drawing should be included or the tax map information can be shown on Sheet T-1.

Steven Hutchinson: We will provide that.

Comment #12: §164-78D states that the owner of the facility shall submit evidence of compliance with the FCC standards on a yearly basis to the Planning Board. If new, more restrictive standards are adopted by any appropriate federal or state agency, the facility shall be made to comply or continued operations may be restricted by the planning board.

Mr. Astorino: John, does that go to the Planning Board or the Building Department?

Mr. Bollenbach: It depends on the extent and the nature of it. It will be reviewed by the Building Department. If it is something that becomes significant, it could be referred to the Planning Board.

Comment #13: §164-78A(1) and (4) requires camouflage for the proposed antenna and vault. It is unclear what the Applicant is proposing for camouflage.

Steven Hutchinson: That is the bush, the monopine.

Mr. Bollenbach: Do we have color samples of the antenna itself?

Steven Hutchinson: It is painted the same.

Mr. Bollenbach: Please provide that.

Laura Barca: It needs to be stated specifically on the plans.

Mr. McConnell: Does that also include the 3'x5' vault?

Mr. Bollenbach: Yes. It would include everything.

Steven Hutchinson: That vault is to be underground.

Mr. Bollenbach: We need to know the color of the cabinet. It would need to be earth tones. It would need to be less than 60% reflectivity.

Steven Hutchinson: It comes in a camouflaged tan.

Mr. Bollenbach: Good. As long that it meets the criteria.

Steven Hutchinson: Ok.

Comment #14: The proposed equipment shelter is required to be architecturally compatible to existing structures and camouflaged by year-round landscaping in accordance with §164-79A(4)(b) and (c). Does the Planning Board feel that additional screening is required?

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

Comment #15: This site plan application requires proof that the Applicant is a licensed carrier; none was submitted §164-80B(1).

Steven Hutchinson: It is on order.

Laura Barca: Ok.

Steven Hutchinson: T-Mobile has ordered it.

Laura Barca: Ok.

Comment #16: This site plan application requires a certified statement by a radio frequency technical expert that the installation of the proposed antennae, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent properties or with public safety telecommunications and is in accordance with FCC standards; this has not been provided §164-80B(2).

Steven Hutchinson: There is an emission study. That has been done.

Mr. Astorino: Ok.

Mr. Bollenbach: Do you have a copy of that you could give to us tonight?

Steven Hutchinson: Yes.

Mr. Bollenbach: Please give that to Laura.

Comment #17: This application requires proof that the wireless telecommunication facility shall be fully automated and shall require only occasional maintenance of the facility and site §164-80B(4).

Steven Hutchinson: It operates on itself.

Mr. McConnell: If the Code states to require proof, shouldn't we have some sort of a letter to that effect?

Mr. Astorino: I guess we should have something.

Steven Hutchinson: We will give you an Un-Man telecommunication facility.

Mr. Astorino: Ok.

Comment #18: Since a special use permit is required to be submitted by the tower owner (T-mobile/Omnipoint), then the items identified in §164-80C will be required to be provided by T-mobile. If these items have previously been submitted to the Town, it is requested that additional copies be submitted for this application. If only minor changes have occurred, it is important that these items be specifically called out in a narrative letter.

Mr. Bollenbach: That is really for the benefit of T-Mobile. We will have to get the T-Mobile approval before it could run together. Both of them would have to be approved.

Steven Hutchinson: Understood.

Comment #19: Since a special use permit is required to be submitted by the tower owner (T-mobile/Omnipoint), then §164-81 (Collation Requirements) would be applicable.

Comment #20: 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.

Mr. Bollenbach: You could take a look. They have been previously filed. Take that information and replicate it.

Steven Hutchinson: No problem.

Comment #21: Surveyor to certify that iron rods have been set at all property corners.

Mr. Astorino: That goes back to the original application.

Comment #22: Payment of all fees.

Steven Hutchinson: Yes.

Comment #23: A building department permit will be required after planning board approval and prior to construction.

Steven Hutchinson: Ok.

Mr. Astorino: Do any Board members or Professionals have any comments? We will waiting for further information from you.

Steven Hutchinson: Ok. A lot of the information would be coming from T-Mobile.

Mr. Astorino: Right.

Steven Hutchinson: Thank you.

***Meadowbrook Farms/Nop #2 Sectionalizing Plan (Section I)***

Application for Preliminary Approval for filing subdivision in Sections and Application for Final Approval for Approval for filing a 35-Lot Cluster Subdivision in Sections, Section I to consist of proposed 24-Lot cluster subdivision, situated on tax parcels S 29 B 1 L 63 and S 29 B 1 L 65.1; parcels located on the northwestern side of Union Corners Road across from Sargent Road, in the RU/AI zones, of the Town of Warwick. Original Conditional Final Approval for the proposed 35-Lot cluster subdivision was granted on, 8/6/08.

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

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board: (letter dated 06/01/10).
  - a. How will open space be preserved?
  - b. How will Section 2 be limited to 11 lots?
4. Architectural Review Board: No comments (email dated 06/01/10).
5. Sheet 1, Note 5 states that this section is for the subdivision of 25 residential lots; this count would include Lot 36 as having a residential home placed on it and Section 2 including only 10 additional lots. The Applicant should clarify if Lot 36 is proposed for one home or no construction in Section 1.
6. A temporary end of the road marker or break-away barrier should be placed to prevent an unfamiliar driver from entering the future cul-de-sac area prior to the road being completed.
7. Stormwater references should be updated to GP-0-10-001.
8. On Sheet 1, there are two note fives; Applicant should clarify.
9. Sheet 1, Note 6 seems unclear that Section 1 Lot 36 can be further subdivided in accordance with the Sectionalized Subdivision Plan.
10. On Sheet 3, there should be iron pins set at the following locations: (1) at the fillet of Road C, (2) at the end of Road C (boundary with adjacent property, and (3) at the northeastern corner of the property.
11. What is the purpose of the 4-in. perforated pipe alongside the open bottom arch culverts (Sheet 5)?
12. On Sheets 5 and 6, sometimes a roadside swale is shown with a dry swale detail line and sometimes it is shown only with the contour lines. What is the difference between these two types of swales?
13. Does the SWPPP contain calculations for the each driveway having a 15-in HDPE drainage pipe?
14. A note shall be added to the plan stating that the proposed temporary sediment trap shown on Lot 36 should not be located in the area of a future road, driveway, septic system, or house location.
15. The profile on Sheet 9 of 18 is not identified.
16. The profile on Sheet 10 of 18 is not identified.
17. On Sheet 11, the notation about the soil tests being witnessed by the Town Engineer should be clarified to state that these tests were witnessed by Tectonic Engineering.
18. There are two soil stockpile areas shown in Section 1; what is the cut/fill in Section 1? Will large amounts of soil need to be stored and/or brought in as a result of the sectioning of this plan?

19. The silt fencing is shown all the way around on soil stockpiles in the plan set (sheets 14 & 15); however the detail on sheet 16 does not show the silt fencing all the way around – the plans and details should be consistent.
20. The Applicant should submit a narrative of the Stormwater Plan stating specifically what is different from the plan that received conditional final approval.
21. The proposed drainage is the same as approved except for the installation of the temporary grass outlet sediment trap. The Applicant should submit a copy of the revised SWPPP showing the calculations for the temporary grass outlet sediment trap.
22. The Landscaping Plan shown on Sheets 17 & 18 has not been separated by sectioning. It must be clear (i.e. via a planting schedule) which plants will be installed during Section 1.
23. Surveyor to certify that iron rods have been set at all property corners.
24. Payment of parkland fees.
25. Payment of all fees.

The following comment submitted by the Conservation Board, dated 6/2/10:

Meadowbrook Farms/Nop #2 Sectionalizing Plan (Section I) - The CB does not object to the sectionalization, splitting the property into the first section covering 24 lots and the second section covering the remaining 11 lots. Incidentally, when first reviewed this project called for 33 lots, then 34 and now 35. CB would like more detail on how the open space is to be preserved and assurances that the next review will be limited to 35 lots.

The following comment submitted by the ARB:

Meadowbrook Farms/Nop #2 Sectionalizing Plan (Section I) – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board fully complied with SEQR already on this before Final Approval. The only time when SEQR would be invoked is if there were any changes to the plans that would have a potential for creating a significant adverse impact. This certainly is not. The plans are not changing. It is only the scheduling of when the building lots would be built.

Mr. Astorino: Ok.

Comment #2: Applicant to discuss project.

Dave Higgins: We are in for sectionalization so that the applicant could proceed with the project in this economy. There are difficult amounts of improvements. We would like to break them up into two phases.

Comment #3: Conservation Board: (letter dated 06/01/10).

- a. How will open space be preserved?
- b. How will Section 2 be limited to 11 lots?

Mr. Astorino: It is not changing. John, I believe there are deed restrictions set in place. Is that correct?

Mr. Bollenbach: There are deed restrictions and a declaration. The open space would be retained by the Nop Farm. It would be continued as an agricultural use. Also, in regards to Section 2 being limited to 11 lots, we will have to do a little map revision here. You will need to indicate Section I and Section II on the map with the 11 lots.

Mr. Astorino: This does not change the overall approval.

Mr. Bollenbach: No.

Mr. McConnell: Mr. Chairman, I think if I read the comments from the CB accurately, there was a concern that the number of the total lots in the life of this application has changed by an increase or a decrease. I think that is where the question had arisen from.

Mr. Astorino: Not since final approval.

Mr. Bollenbach: We will take a look at that.

Mr. McConnell: Let us get it set in stone so that there are no more questions about that.

Mr. Bollenbach: Let us verify the yield. Laura, could you take a look at that?

Mr. Astorino: I don't know what the point of it is. It received final approval for 35 lots back in the year 2008.

Laura Barca: The only thing that changed was what Dave is now calling lot 36 is what was formally lots 21 to 33 or 32.

Mr. McConnell: Let us make sure that anyone reading it would understand it.

Dave Higgins: I think in excess of their comment had to do with originally, there were 33 lots, 34 lots, and then it went to 35 lots. That was done during the approval process. We did have to go back to the yield plan. That was all done. We proved out the number of lots. There was the existing Nop Farm house and the house next to it where his daughter lives. We split those 2 lots out at the end. We were told that late in the process. It is 35 lots in total.

Mr. McConnell: Ok. Let the record reflect that. It is 35 lots.

Mr. Astorino: There is no further subdivision. It is a cluster.

Mr. McConnell: I understand that.

Dave Higgins: We had named it the last lot on Section II, lot #36.

Mr. Astorino: That should be changed.

Dave Higgins: We did that so it wouldn't be confused with lot #35.

Mr. McConnell: Yet, that had caused some confusion. Maybe, you could redress something with our engineers so that someone looking at it would understand it is 35 lots.

Mr. Astorino: We will work that out.

Laura Barca: Maybe, what we will do is lot 36 would have a note to say see note number something.

Dave Higgins: We did have some notes. I think what John was talking about with regards to the plan change and I realized it today, the sectionalized subdivision plan that the Planning Board would hopefully be approving which would designate Section I and ultimately with Section II. I think what you are saying is that you want to see dash lines representing what the lots are and how many there are.

Mr. Bollenbach: Yes. What my suggestion would be you have the 24 lots shown in Section I. The remainder lot would be lot #25. That lot line would also include Section II at this time. Section II hasn't been created yet. In Section II, I would just simply say Section II and number the lots 1 through 11. That is Section II. It is not a separate lot number. Those lot numbers would be assigned at such time that you get the approval for Section II.

Dave Higgins: You want us to show Section II, lots 1 through 11.

Mr. Bollenbach: Correct.

Mr. Astorino: I agree with you on that. That would clear a lot up.

Mr. Bollenbach: What the idea is, you would get your approval for Section I and then all of those lots become subdivided. The remainder would stay as one lot.

Dave Higgins: Ok. These other lots, 32, 33, 34, & 35, should I leave that or should they change?

Mr. Bollenbach: We will have to take a look at that.

Laura Barca: We will need to look at that. I don't think I necessarily agree with that because the conditional of final approval has those lots as lot #21. If we called what was lot 21 now to be called lot 1 in this one subdivision, now we have two lot 1's whereas lot 1 is really lot 21.

Mr. Bollenbach: This is a new approval in sections.

Laura Barca: Right. I don't disagree with that. But, it still goes back to that first conditional of final approval.

Mr. Bollenbach: We will have to take a look at that.

Dave Higgins: Ok.

Mr. McConnell: You could see that there is a lot of confusion here.

Mr. Astorino: The property is going into two pieces. I don't really see what is so hard about that. You have an x number of lots in one section and an x number of lots in the other section. We are not going back into the subdivision process. It has already been approved. I think with all the professionals that we have here, it could be worked out. There will be two sections.

Dave Higgins: We will work it out.

Comment #4: Architectural Review Board: No comments (email dated 06/01/10).

Mr. Astorino: There are none.

Comment #5: Sheet 1, Note 5 states that this section is for the subdivision of 25 residential lots; this count would include Lot 36 as having a residential home placed on it and Section 2 including only 10 additional lots. The Applicant should clarify if Lot 36 is proposed for one home or no construction in Section 1.

Laura Barca: We will clarify that.

Comment#6: A temporary end of the road marker or break-away barrier should be placed to prevent an unfamiliar driver from entering the future cul-de-sac area prior to the road being completed.

Mr. Astorino: You will still need a cul-de-sac turnaround for emergency services.

Dave Higgins: If you remember, we talked about it at one of the Work Sessions. We have a T-intersection that they could use as a turnaround. This way they could pull past Faulkner Circle back into it, then pull out. That provides a turnaround. There is also a loop located there.

Mr. Astorino: Now, your reason for not building into Section 2 with the road, we talked about that at the Work Session that it seemed to be short. If you go all the way out there, it would be a short piece of the road. Is that just the bonding?

Dave Higgins: It was so that they could turnaround.

Mr. Astorino: That was a comment that came up. If you are out there with the equipment and doing it, it doesn't seem feasible just to stop there.

Mr. McConnell: It seemed like there would be that much savings in when you consider it later on. The price of doing it will go up. It would save more now to pave it.

Dave Higgins: Yes. He is trying to limit the construction cost up front regarding the bonding and everything. What we could do is to have that come out to so that you would loop it. The reason why he is making this application is to limit the bonding costs. If we go out with the rest of the road, it would be the road and the drainage. If that would be the case, then we might as well subdivide all the lots. Is what we have acceptable?

Mr. Astorino: I don't have problem with it. That was just a question that came from the Board.

Mr. Bollenbach: Are you sure this is what you want to do?

Dave Higgins: We are pretty sure that this is what we want to do.

Mr. Bollenbach: Ok.

Comment #7: Stormwater references should be updated to GP-0-10-001.

Dave Higgins: Will do.

Comment #8: On Sheet 1, there are two note fives; Applicant should clarify.

Dave Higgins: We will fix that.

Comment #9: Sheet 1, Note 6 seems unclear that Section 1 Lot 36 can be further subdivided in accordance with the Sectionalized Subdivision Plan.

Dave Higgins: We will work that out with John and Laura.

Comment #10: On Sheet 3, there should be iron pins set at the following locations: (1) at the fillet of Road C, (2) at the end of Road C (boundary with adjacent property, and (3) at the northeastern corner of the property.

Dave Higgins: We will work that out with Laura.

Mr. Bollenbach: When you have the offer of dedication for Road A should also include Road C. That Road Stub C will not be improved, but it will be dedicated to the Town.

Dave Higgins: Right.

Mr. Bollenbach: The Town wants to make sure that we don't have these difficulties in the future where the adjoining lot owners were unaware that it's already Town property.

Comment #11: What is the purpose of the 4-in. perforated pipe alongside the open bottom arch culverts (Sheet 5)?

Dave Higgins: We will clarify.

Comment #12: On Sheets 5 and 6, sometimes a roadside swale is shown with a dry swale detail line and sometimes it is shown only with the contour lines. What is the difference between these two types of swales?

Dave Higgins: We will clarify.

Comment #13: Does the SWPPP contain calculations for the each driveway having a 15-in HDPE drainage pipe?

Dave Higgins: We did not have that in the SWPPP. Tectonic has never asked for that. We could give you a calculation. What we will do is pick the worst-case scenario and give you the flow calculation on that and the culvert performance. I am sure it will be fine. There is not a lot of drainage that goes to the driveway culverts. We will give you the calculation on that.

Laura Barca: Ok.

Comment #14: A note shall be added to the plan stating that the proposed temporary sediment trap shown on Lot 36 should not be located in the area of a future road, driveway, septic system, or house location.

Dave Higgins: We will add a note.

Comment #15: The profile on Sheet 9 of 18 is not identified.

Dave Higgins: We have this identified in the Title Block.

Laura Barca: Ok.

Comment #16: The profile on Sheet 10 of 18 is not identified.

Dave Higgins: The same thing. We have it identified in the Title Block.

Comment #17: On Sheet 11, the notation about the soil tests being witnessed by the Town Engineer should be clarified to state that these tests were witnessed by Tectonic Engineering.

Dave Higgins: Will do.

Comment #18: There are two soil stockpile areas shown in Section 1; what is the cut/fill in Section 1? Will large amounts of soil need to be stored and/or brought in as a result of the sectioning of this plan?

Dave Higgins: We have never done a cut fill analysis. It was part of the original approval.

Laura Barca: Ok.

Comment #19: The silt fencing is shown all the way around on soil stockpiles in the plan set (sheets 14 & 15); however the detail on sheet 16 does not show the silt fencing all the way around – the plans and details should be consistent.

Dave Higgins: We will revise the plan.

Comment #20: The Applicant should submit a narrative of the Stormwater Plan stating specifically what is different from the plan that received conditional final approval.

Dave Higgins: We will provide an addendum to the SWPPP.

Comment #21: The proposed drainage is the same as approved except for the installation of the temporary grass outlet sediment trap. The Applicant should submit a copy of the revised SWPPP showing the calculations for the temporary grass outlet sediment trap.

Dave Higgins: Will do.

Comment #22: The Landscaping Plan shown on Sheets 17 & 18 has not been separated by sectioning. It must be clear (i.e, via a planting schedule) which plants will be installed during Section 1.

Dave Higgins: We will work with the Landscape Architect on that.

Comment #23: Surveyor to certify that iron rods have been set at all property corners.

Dave Higgins: We will include that in the performance bond.

Comment #24: Payment of parkland fees.

Dave Higgins: The applicant will take care of that.

Comment #25: Payment of all fees.

Dave Higgins: The applicant will take care of that.

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

Mr. Bollenbach: Dave, if you make these revisions and have something in a final format, the next time it appears before the Board at a Work Session and we put it on an agenda, it would be up to the Board to consider waiving a public hearing. I believe that this would have less of an impact. It is nothing different than what it was before. It is just the 24 lots. It already has been reviewed. There is not a substantial or significant difference. It is actually lesser of an impact. It would be something for the Board to consider the next time they appear.

Mr. Astorino: Ok. Does the Board agree with that?

Mr. McConnell: John, I have a question that I would like to hear from the engineers on this. I understand that this section is less of an impact than what it received conditional approval. Is there any possibility that by sectionalizing you actually increase impact because you would have to go in and do certain things twice or go over things that were done? Is there any possibility that the sum is greater than the total of the parts?

Mr. Bollenbach: That possibility always exists. The applicant's engineer has demonstrated for example with the SWPPP and soil erosion control that everything could be self contained within the Section I.

Mr. McConnell: Right. He will be building a temporary grass swale. Then, you will be going into Section II and would have to change that somehow. Does that rise to the level of creating the greater impact than if they had done it all at once? That is the only question that I want answered. I don't know the answer to the question.

Dave Higgins: We could take care of that in the addendum. We will address it.

Mr. McConnell: Laura, with the Board's approval, if you could take a look at that with that eye so that we are not creating something that is going to have a greater impact than what we are anticipating.

Laura Barca: Yes.

Mr. Bollenbach: Dave, eventhough that drainage improvement is intended to be temporary, it must be designed and constructed as a permanent measure.

Dave Higgins: Right.

Mr. Bollenbach: So that in the event that Section II never happens, that it would still be in place. Ted, do you see any problem with that?

Mr. Fink: No. I do not.

Dave Higgins: Ok. The conditional final approval is up for an extension or re-approval in August. We do plan to be back before that. Do we still need to go for an extension or re-approval?

Mr. Bollenbach: Yes.

Dave Higgins: Ok. Thank you.

***Lands of Brian Singer***

Application for Final Approval (Amendment of the conditions) of a proposed 2-Lot subdivision, situated on tax parcel S 66 B 1 L 75; parcel located on the western side of Brilller Road 1000 feet south of Continental Road, in the CO zone, of the Town of Warwick. A SEQR Negative Declaration was adopted on 10/7/09. Conditional Final Approval was granted on 10/7/09.

Representing the applicant: Chris Rainato from Kirk Rother Engineering. Brian Singer, Applicant.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board: No comments (letter dated 06/01/10).
4. Architectural Review Board: No comments (email dated 06/01/10).
5. The ZBA variance was granted on November 24, 2008 and will expire on 11/24/10.
6. Discussion from site inspection about width of common driveway to service 2 lots.
7. Discussion from site inspection about any screening plantings necessary.
8. A swale is indicated on the northern-side of the common driveway between Brilller Road and the turnaround. The gradient of the swale is approximately 12%. Show appropriate erosion control measures. Provide a means to keep the flow within the proposed swale, ultimately discharging on the applicant's property. Discussion of overall drainage following site inspection.
9. On Sheet 4 of 5, the soil tests are shown to be witnessed by the Town Engineer; this should be clarified to state Tectonic Engineering.
10. The Applicant should clarify if the percolation test PT2 was witnessed by the Town.
11. There is a profile for the "Common Drive from End of Brilller Road" on Sheet 5 of 5; where is this shown in the plan view?
12. Sheet 5 of 5 shows a detail for a driveway swale, but there is no swale called out on the site plan. The location of where this swale is proposed should be clarified on the site plan.
13. A separate cross sectional detail should be provided for the 15-ft wide roadway improvement showing all applicable information: pavement width, bounds of easement, swale (if appropriate). Notes should be added to this detail clearly stating where this detail applies.
14. A second cross sectional detail should show the 12-ft driveway and the 16-ft common driveway. Notes should be added to this detail clearly stating where this detail applies.
15. The declaration information for the Radon Reduction Notes will need to be shown on the drawing.
16. The declaration information for the Ridgeline Overlay Notes will need to be shown on the drawing.
17. The declaration information for the Open Space Notes will need to be shown on the drawing.
18. The declaration information for the Private Road Use and Maintenance Agreement Notes will need to be shown on the drawing, including who will be responsible for maintaining which portions of the road.
19. Surveyor to certify that iron rods have been set at all property corners.
20. Payment of parkland fees.
21. Payment of all fees.

The following comment submitted by the Conservation Board, dated 6/2/10:

Lands of Brian Singer – CB has no comments.

The following comment submitted by the ARB:

Lands of Brian Singer – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has fully complied with SEQR and issued a Negative Declaration. The only time that SEQR would be invoked is if there would be any increase in the impact of what was already addressed in the Planning Board's SEQR review process.

Comment #2: Applicant to discuss project.

Chris Rainato: It is an existing project that had conditional final approval before. All we are looking to do is to amend our approval to allow the applicant to use the existing road as the common driveway.

Comment #3: Conservation Board: No comments (letter dated 06/01/10).

Chris Rainato: There are none.

Comment #4: Architectural Review Board: No comments (email dated 06/01/10).

Chris Rainato: There are none.

Comment #5: The ZBA variance was granted on November 24, 2008 and will expire on 11/24/10.

Comment #6: Discussion from site inspection about width of common driveway to service 2 lots.

Mr. Astorino: Dennis, Beau, Ted, Laura, and I were out to the site this evening. Did anything stand out to you? It seemed to me that we measured the width of the road, it was 15 feet. We measured it personally ourselves without going into the drainage swale. I think with the discussion we had with the engineer, Laura correct me if I am wrong, I believe some item and some paving would be needed.

Laura Barca: Right. It would need grading of what is existing. Then, they would need to add some additional sub-base on top of that. Then, it would be graded towards the existing swale. Then, they would put 2" of top course on top of that.

Mr. Astorino: Ok. Gentlemen that were out to the site, do you have anything else to add? We all seem to be set with that.

Comment #7: Discussion from site inspection about any screening plantings necessary.

Mr. Astorino: Ted, you were out to the site.

Mr. Fink: I was out to the site. Much of the natural screening that is present already. It would not need to be taken down. You will have natural screening that will remain.

Mr. Bollenbach: Would there be a need for supplemental screening or not?

Mr. Astorino: I didn't see any need.

Mr. Fink: There is fairly good screening that is already in place along the Right-Of-Way.

Mr. McConnell: What kind of plantings would we have required with what we had approved? Would it have been deciduous or evergreens of some sort?

Mr. Fink: I would have to go back and look at the original plan. I don't recall exactly what we had finally come up with. There were going to be replacement plantings for what was going to be cut down. I don't remember the exact details.

Mr. McConnell: My only thought is that I don't recall seeing leafy bushes and so on. We are not cutting out anything, if the applicant would agree voluntarily of maybe putting in some evergreen type screening just to make it better. I don't know if we could require that.

Mr. Bollenbach: Yes. We could require that.

Mr. Astorino: Maybe Ted could take a cruise out there when you get a chance before a meeting just to see if there are any areas that might need some evergreens. If there is no room for it, then it would be defeating the purpose.

Mr. McConnell: That is a good point.

Mr. Fink: I will take a ride out there again.

Mr. Astorino: Ted, maybe you could take a quick cruise out there. I don't know if you or Laura paid that much attention to it on the way in or out. I looked at it. There was a lot of it existing.

Laura Barca: Right. I don't think there is because the only place I could think of would be where Briller Road ends and the common driveway starts and the driveway to the existing house it kind of branches off to probably put some in there. You can't really put it in there because if you come out of that driveway way, it was kind of rocky. You wouldn't be able to look down the common driveway to see if cars would be coming.

Mr. Astorino: Exactly.

Mr. McConnell: Good point.

Mr. Astorino: Dennis, I know your point is valid if there is any to fill it. I do think there is quite a bit there.

Mr. McConnell: Ok. Maybe Ted would take another look out there.

Mr. Fink: Yes.

Mr. Bollenbach: We will keep comment #7. We will add to that comment, "to Town Planner's specifications".

Mr. Astorino: That will be fine.

Comment #8: A swale is indicated on the northern-side of the common driveway between Briller Road and the turnaround. The gradient of the swale is approximately 12%. Show appropriate erosion control measures. Provide a means to keep the flow within the proposed swale, ultimately discharging on the applicant's property. Discussion of overall drainage following site inspection.

Mr. Astorino: This comment doesn't even apply now. They are not changing the swale. Laura, is that correct?

Laura Barca: Right. What we discussed in comment #6 supersedes what was discussed in comment #8.

Mr. Astorino: Theoretically, if they are just putting in a layer of compacted item and then paving the 2" of asphalt and pitching it to the swale, you would not be doing the ripping and tearing.

Laura Barca: Right. I think this comment was originally for the road that is not being constructed.

Mr. Astorino: Exactly. We could strike comment #8. Maybe at the end we could make a comment towards the end a comment requiring to the Town Engineer's specifications of the road regarding the sub-base and the asphalt.

Comment #9: On Sheet 4 of 5, the soil tests are shown to be witnessed by the Town Engineer; this should be clarified to state Tectonic Engineering.

Chris Rainato: We will clarify that.

Comment#10: The Applicant should clarify if the percolation test PT2 was witnessed by the Town.

Chris Rainato: We will clarify that.

Comment #11: There is a profile for the "Common Drive from End of Briller Road" on Sheet 5 of 5; where is this shown in the plan view?

Chris Rainato: We will note that out from the plans.

Mr. Astorino: That would be to the Town Engineer's specifications.

Comment #12: Sheet 5 of 5 shows a detail for a driveway swale, but there is no swale called out on the site plan. The location of where this swale is proposed should be clarified on the site plan.

Chris Rainato: That would no longer be applicable regarding that swale. That was for the old proposed common driveway.

Mr. Astorino: Laura, do you agree with that?

Laura Barca: Yes. I do agree with that.

Comment #13: A separate cross sectional detail should be provided for the 15-ft wide roadway improvement showing all applicable information: pavement width, bounds of easement, swale (if appropriate). Notes should be added to this detail clearly stating where this detail applies.

Chris Rainato: We will add that detail and revise it per the engineer.

Mr. Bollenbach: Add to comment #13, as per the Planning Board Engineer's specifications.

Mr. Astorino: Yes.

Comment #14: A second cross sectional detail should show the 12-ft driveway and the 16-ft common driveway. Notes should be added to this detail clearly stating where this detail applies.

Chris Rainato: We will add that detail in the notes.

Comment #15: The declaration information for the Radon Reduction Notes will need to be shown on the drawing.

Chris Rainato: We will add those.

Comment #16: The declaration information for the Ridgeline Overlay Notes will need to be shown on the drawing.

Chris Rainato: We will add those.

Comment #17: The declaration information for the Open Space Notes will need to be shown on the drawing.

Chris Rainato: We will add those.

Comment #18: The declaration information for the Private Road Use and Maintenance Agreement Notes will need to be shown on the drawing, including who will be responsible for maintaining which portions of the road.

Chris Rainato: We will add those.

Comment #19: Surveyor to certify that iron rods have been set at all property corners.

Chris Rainato: Ok.

Comment #20: Payment of parkland fees.

Chris Rainato: Ok.

Comment #21: Payment of all fees.

Chris Rainato: Ok.

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

Mr. Bollenbach: I just wanted to let the Board know that we have received a letter from Phyllis Briller, dated June 1, 2010 for the Board's consideration. I also just wanted to read a little excerpt from the ZBA Resolution that appears on the map. It states as follows; "*Based upon the evidence before the ZBA and examination of the road by Board members, it was determined that there was adequate ingress and egress for emergency vehicles at this time*". I just wanted to confirm with the Planning Board that yes this is the road that you also agreed with. That is the existing roadway/driveway that would be improved.

Mr. Astorino: That would be with a turnaround at the end so there would be better access at this point.

Mr. Bollenbach: Ted, is there any need for any additional SEQR action? I believe there would be less of an impact because the improvements proposed are on the existing driveway.

Mr. Fink: That certainly was confirmed when we were out at the site earlier tonight. I believe that there would be less of an impact with this proposal than what was already addressed when the Planning Board issued the Negative Declaration that determined that there would be no significant impact based upon the prior plan. This will be less of an impact.

Mr. Bollenbach: It is for the Board to consider, this is actually a de minimus revision. It would be less of an impact.

Mr. McConnell: That is how it appeared to me.

Mr. Showalter: I like to make a comment. I have nothing against Mr. Ted Fink down at the other end. I think we have done plenty of site visits out there. I have gone out there a number of times myself to look at it so I could understand what is going on. I don't think Mr. Singer needs to go through any further expenses on this project. That is my opinion. I think the impact is less than what it was going to be.

Mr. Bollenbach: I just wanted to add two more comments. As the Board is aware, there is current litigation between Mr. Singer and Mrs. Briller. I would like to add a comment #22, the applicant proceeds at its own risk pending the outcome of current litigation. You would be proceeding at your own risk. I would like to add a comment #23. I had discussions with Mr. Myrow. I believe it would be a good idea to add a comment #23 to state; the applicant reserves the right to perfect either the 10/7/09 Approval or 6/2/10 Approval. That way there would be a little flexibility with the litigation. See how things work out. This would be an approval for the revised plan, if this is what works out. They would have to complete all of the conditions of either approval. If it works out that the prior approval is the one that would be perfected, then that one would be pursued.

Mr. Astorino: Then, it would go back to the conditions of that approval.

Mr. Bollenbach: Correct.

Mr. Astorino: Is the Board ok with that?

Mr. McConnell: I have no problem with that.

Mr. Bollenbach: Would the Board consider waiving a public hearing?

**Mr. McConnell makes a motion to waive the public hearing.**

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

Mr. Showalter makes a motion on the Lands of Brian Singer application, granting Final Approval (Amendment of the conditions) for a proposed 2-Lot subdivision, situated on tax parcel S 66 B 1 L 75; parcel located on the western side of Briller Road 1000 feet south of Continental Road, in the CO zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on October 7, 2009. Conditional Final Approval was granted on 10/7/09. Approval is granted subject to the following conditions:

1. Discussion from site inspection about width of common driveway to service 2 lots. The Planning Board deemed the 15 feet to be adequate.
2. Provide screening plantings to Town Planner's specifications.
3. On Sheet 4 of 5, the soil tests are shown to be witnessed by the Town Engineer; this should be clarified to state Tectonic Engineering.
4. The Applicant should clarify if the percolation test PT2 was witnessed by the Town.
5. There is a profile for the "Common Drive from End of Briller Road" on Sheet 5 of 5; where is this shown in the plan view?
6. A separate cross sectional detail should be provided for the 15-ft wide roadway improvement showing all applicable information: pavement width, bounds of easement, swale (if appropriate). Notes should be added to this detail clearly stating where this detail applies as per Planning Board Engineer's specifications.
7. A second cross sectional detail should show the 12-ft driveway and the 16-ft common driveway. Notes should be added to this detail clearly stating where this detail applies.
8. The declaration information for the Radon Reduction Notes will need to be shown on the drawing.
9. The declaration information for the Ridgeline Overlay Notes will need to be shown on the drawing.

10. The declaration information for the Open Space Notes will need to be shown on the drawing.
11. The declaration information for the Private Road Use and Maintenance Agreement Notes will need to be shown on the drawing, including who will be responsible for maintaining which portions of the road.
12. Surveyor to certify that iron rods have been set at all property corners.
13. The applicant proceeds at its own risk pending the outcome of current litigation.
14. The applicant reserves the right to perfect either the 10/7/09 Approval or 6/2/10 Approval.
15. Payment of Parkland Fees.
16. Payment Of All Fees.

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

Chris Rainato: Thank you.

Brian Singer: Thank you.

**Other Considerations:**

1. **The Gables @ Warwick Subdivision** – Letter from Karen Emmerich, Lehman & Getz Engineering, dated 5/13/10 addressed to the Planning Board in regards to the Gables @ Warwick Subdivision – requesting a 6-Month Extension on the 2<sup>nd</sup> Re-Approval of Final Approval of a proposed 15-Lot cluster subdivision, situated on tax parcel SBL # 44-1-132; parcel located along the southern side of NYS Route 17A at the intersection of the east end of Ketchum Road, in the RU zone. Final Approval was granted on, 12/5/07. The 2<sup>nd</sup> Re-Approval of Final Approval was granted on 11/18/09 became effective on, 12/5/09. *The applicant has stated that the Gables project is dependent on a water supply system that is proposed for both the Gables Subdivision and the neighboring project, BCM subdivision. These projects are on hold due to the current recession, and hope to proceed as soon as conditions improve.* The 6-Month Extension on the 2<sup>nd</sup> Re-Approval of Final Approval becomes effective on, 6/5/10.

Mr. McConnell makes a motion on the Gables @ Warwick Subdivision, granting a 6-Month Extension on the 2<sup>nd</sup> Re-Approval of Final Approval of a proposed 15-Lot cluster subdivision. SBL # 44-1-132. Final Approval was granted on, 12/5/07. The 2<sup>nd</sup> Re-Approval of Final Approval was granted on, 11/18/09 became effective on, 12/5/09. The 6-Month Extension on 2<sup>nd</sup> Re-Approval of Final Approval becomes effective on, 6/5/10.

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

2. **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 **3<sup>rd</sup> 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 2<sup>nd</sup> Re-Approval of Final Approval as amended, granted on 7/15/09 became effective on, 5/7/09. The 6<sup>th</sup> 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 3<sup>rd</sup> Re-Approval.* The 3<sup>rd</sup> Re-Approval of Final Approval becomes effective on, 5/7/10, subject to the amended conditions granted on 7/15/09.

Mr. Astorino: I had explained at the Work Session that John Batz the Building Inspector and myself went out to the property. There was a question at the last meeting regarding the small home that was abandoned. The small home is still abandoned. There is no sign of life there.

Mr. McConnell makes a motion on the Adele Grill Subdivision, granting **3<sup>rd</sup> Re-Approval** of Final Approval of a proposed 4-Lot Cluster Subdivision, situated on tax parcels 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 Amended 2<sup>nd</sup> Re-Approval of Final Approval granted on 7/15/09 became effective on, 5/7/09. The 3<sup>rd</sup> Re-Approval of Final Approval becomes effective on, 5/7/10.

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

3. **Planning Board Minutes of 5/19/10** – Planning Board Minutes of 5/19/10 for Planning Board Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 5/19/10.

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

4. Planning Board to discuss cancelling the 6/28/10 Work Session & 7/7/10 Planning Board Meeting due to the 4<sup>th</sup> of July Holiday.

Mr. Astorino: We usually cancel that every year. A lot of people will be away including our secretary.

Mr. McConnell makes a motion to cancel the 6/28/10 Work Session and the 7/7/10 Planning Board Meeting.

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

**Correspondences:**

Mr. Astorino: As John had mentioned earlier tonight, we received a letter from Phyllis Briller, dated 6/1/10. We have that letter in our packets. I don't believe we have any other correspondences.

Connie Sardo: No.

**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.

Phyllis Briller: I object to the Planning Board giving approval to the Brian Singer application and waiving a public hearing given that you know there is neighborhood opposition to this. You have received a letter from me about this. You have chosen to waive the public hearing anyway. You also agreed to have the road constructed over my property which is contrary to the previous approval that you have given him where no construction has taken place on my property. You have done so without allowing me to have a say in this issue. You did not give me the opportunity to vigorously oppose this. I also ask regarding your regulations, and my attorney will want to know about this. Where does it allow a common driveway or a shared driveway to be 15 feet in width?

Mr. Astorino: John, I believe that it is in there.

Mr. Bollenbach: It is up to the Planning Board's discretion.

Mr. Astorino: Right. We have done it in the past.

Phyllis Briller: Is there anything in there that suggest that it was?

Mr. Bollenbach: I am not going to debate this. This is a subject of litigation. I am not going to respond.

Phyllis Briller: But, you did approve a 15-foot? Do we have precedent? May I ask for precedent having made that decision?

Mr. Bollenbach: Yes. There is. I am not going to further comment.

Phyllis Briller: Ok. Thank you.

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

Phyllis Briller: May I ask one other question regarding the Brian Singer application?

Mr. Astorino: Sure.

Phyllis Briller: Is there also precedent for allowing construction of a road across lands that have not been approved by the ZBA? The ZBA provided a 2-lot subdivision.

Mr. Bollenbach: I am not going to comment on that. I made my comment previously. I read an excerpt from the ZBA that they looked at the traveled way and found it to be safe adequate ingress and egress.

Phyllis Briller: John, recognizing that they did not have approval for his 2-lot subdivision over the traveled way.

Mr. Bollenbach: I have no comment.

Mr. Astorino: That is your legal position.

Mr. Bollenbach: Yes.

Phyllis Briller: Thank you.

**Mr. McConnell makes a motion to adjourn the June 2, 2010 Planning Board meeting.**

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