TOWN OF WARWICK PLANNING BOARD
June 4, 2008

Members present: Chairman, Benjamin Astorino
Russell Kowal, Dennis McConnell
Roger Showalter, Carl Singer
Zen Wojcik, Tectonic Engineering
J. Theodore Fink, Greenplan

The regular meeting of the Town of Warwick Planning Board was held Wednesday, June 4, 2008, at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF Orange & Rockland Utilities, Inc.

Application for *"Amended"* Site Plan Approval and Special Use Permit for the construction and use of a Natural Gas Heater at a Natural Gas Regulating Station, entitled ***O&R Utilities (Greenwood Lake Gate Station Heater #2)***, situated on tax parcel S 58 B 2 L 19; project located on the eastern side of Old Dutch Hollow Road 185 feet southeast of Old Dutch Hollow Road, in the SL zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Mr. Lipman, Attorney. Mr. Rotella and Steve Fay, Applicants.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Note on the plan that propylene glycol, a non-toxic material, will be used in the new heater and that the ethylene glycol in the existing heater will be replaced with propylene glycol.
4. FOR THE RECORD –
    a. The Board requested containment for potential spill. An earthen berm is shown surrounding the existing and proposed heaters.
    b. Applicant is proposing additional screening plantings.
5. List property owners within 300 feet.

BEFORE FINAL APPROVAL:

6. Pay performance bond.
7. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

O&R Utilities GWL Gate Station Heater #2 – None submitted.

The following comment submitted by the ARB, dated 6/4/08:

O&R Utilities GWL Gate Station Heater #2 – The ARB has no further comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: This is an Unlisted Action. The Planning Board has already declared itself Lead Agency. We have received a short EAF. The only SEQR issue was that the property is located in Ridgeline Overlay District. They have placed the Ridgeline map notes on the site plan. They have also provided some additional screening of the area of the proposed heater. We had also asked for the material safety data sheets for the propylene glycol. They have provided that. Those sheets are in the Board's packets tonight. For the containment of a spill, they have planned a containment facility underneath where the heaters are planned to capture and prevent migration of the chemicals off site.

Comment #2: Applicant to discuss project.

Steve Fay: This is a natural gas heater. We need to heat the gas prior to pressure reduction in order to maintain the temperature of the gas above freezing typically around 35 degrees. This is a piece of equipment that is installed at all of our stations. At some stations, Columbia Gas provides the heater. At other stations, we provide the heater. It goes back to initial agreements way back when. We have an existing heater at this site. We plan to maintain the existing heater and add a 2nd heater which would be the primary heater. The existing heater would serve as back up.

Comment #3: Note on the plan that propylene glycol, a non-toxic material, will be used in the new heater and that the ethylene glycol in the existing heater will be replaced with propylene glycol.

Mr. Lipman: Do you want us to add that note?

Mr. Astorino: Yes.

Mr. Lipman: Ok.

Comment #4: FOR THE RECORD –

a. The Board requested containment for potential spill. An earthen berm is shown surrounding the existing and proposed heaters.
b. Applicant is proposing additional screening plantings.

Comment #5: List property owners within 300 feet.

Mr. Lipman: Yes.

BEFORE FINAL APPROVAL:

Comment #6: Pay performance bond.

Steve Fay: Yes.

Comment #7: Pay outstanding review fees.

Steve Fay: Yes.

Zen Wojcik: Mr. Chairman, we need add a comment #8, pay inspections fees.

Mr. Astorino: We will add a comment #8, pay inspection fees.

Steve Fay: I would like to address comment #6, pay performance bond. On our last project when we received approval from the Planning Board last year, we did have some sort of a municipal bond with the Town. Mr. Bollenbach and Zen felt that wasn't sufficient but were willing to accept us replenishing the initial fee of $2,200.00 in lieu of the performance bond. We would request that consideration for this project as well.

Mr. Astorino: We will add to comment #6. Comment #6 will read as follow; pay performance bond to Planning Board Attorney's review. You could work that out with him.

Mr. Lipman: It would be in lieu of the performance bond. It would be to provide a fund with the Town.

Mr. Astorino: We will put it on there for Planning Board Attorney's review. We will go from there.

Mr. Lipman: It is essentially a cash deposit instead of a bond.

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

Mr. McConnell: When you are removing the ethylene glycol from the existing heater, is there a protocol for the transfer of that?

Steve Fay: That has been done already because we are doing maintenance on the existing heater. The station is out of service because of the Millennium Pipeline construction. We had a window where we could go in there and do various maintenance work. One of the things that we had done was to remove the glycol. In this instance, we have an environmental contractor that deals with things like transformer spills. We commission that to come in and physically remove the glycol.

Mr. McConnell: Ok. That was the first part of my question. The second part of my question is that the propylene glycol, how frequently does that need to be replaced or replenished?

Steve Fay: It should not have to be replenished at all. What we might have to do is add additional corrosion inhibitor, which is small quantities, like 5 or 10 gallons.

Mr. McConnell: What I am getting at is that we have requested and you offered to build an earthen berm to contain any spillage. I was wondering about the replenishing. The exchanging would probably be within the berm. I was wondering if there was a protocol for that situation where you are taking something from within the berm and putting it outside.

Steve Fay: Right. We haven't established a berm there yet. We leave it up to the contractor. We trust their personnel. It is not something that is unusual.

Mr. McConnell: Ok. If you needed to take it out, I was going to request that we have it inspected at the time or witnessed that it has already been done.

Mr. Astorino: I am sure that these companies that do it are environmental companies. I am sure that the personnel or the company themselves have to be bonded for spills.

Mr. McConnell: Yes. But, you have to know that a spill had occurred in order to tack on a bond.

Mr. Astorino: I think they would report it. They could get into a lot of trouble if they did not.

Mr. Rotella: Any bulk handling of materials like this, we rely on our environmental licensed contractor.

Mr. McConnell: Is that something we typically inspect or witness?

Zen Wojcik: No.

Mr. McConnell: If you tell me what would be happening in going forward just to replenish 5 gallons, that suggests a can where somebody is now standing within the containment berm. I am not going to worry about it. You have answered my question.

Mr. Lipman: That is not the glycol product.

Mr. McConnell: I understand that.

Mr. Astorino: Does the Board or Professionals have anything further? This is a public hearing. If there is anyone in the audience wishing to address the O&R Utilities Greenwood Lake Gate Station Heater #2 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: O & R Greenwood Lake Heater

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed second heater at an existing natural gas gate station, 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 6/4/08, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Mr. Kowal makes a motion on the Orange & Rockland Utilities, Inc., application, granting *"Amended"* Site Plan Approval and Special Use Permit for the construction and use of a natural gas heater at a natural gas regulating station, entitled ***O&R Utilities (Greenwood Lake Gate Station Heater #2),*** situated on tax parcel S 58 B 2 L 19; project located on the eastern side of Old Dutch Hollow Road 185 feet southeast of Old Dutch Hollow Road, in the SL zone, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

1. Note on the plan that propylene glycol, a non-toxic material, will be used in the new heater and that the ethylene glycol in the existing heater will be replaced with propylene glycol.
2. List property owners within 300 feet.
3. Pay Performance Bond.
4. Pay Inspection Fees.
5. Pay Outstanding Review Fees.

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

Steve Fay: Do you want the property owners within 300 feet on the map?

Connie Sardo: Yes.

Steve Fay: Ok. Thank you.

PUBLIC HEARING OF Michael Hoensch

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

Representing the applicant: Michael Hoensch, applicant.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. If any equipment is used in the proposed Home Occupation, note on the plan where that equipment is stored.
4. Pave the first 25' of the driveway.
5. State on the plan that no used oil tanks shall be off-loaded and/or stored on the premises.
6. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Michael Hoensch – None submitted.

The following comment submitted by the ARB, dated 6/4/08:

Michael Hoensch – The ARB had no further comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared itself Lead Agency. It is an Unlisted Action. We have been reviewing with the short EAF. There were only a couple of issues under SEQR that we dealt with. One issue was whether or not there was going to be any outside storage of construction vehicles or equipment used in the Home Occupation. The applicant at the prior Planning Board meeting assured us that any storage that would occur on the site would be short term. It would be fully enclosed with the barn that is on site. There is no construction proposed as part of this action. There would be no impacts on land, water, or anything like that. The only other issue was that the site is located within the Town's Agricultural Protection District. We have map notes on the site plan that would give notice to any future purchasers of the site about the issues of farming within the area.

Comment #2: Applicant to discuss project.

Michael Hoensch: It is the same thing that I had discussed at the last meeting. I store equipment on my property. I keep it inside for my excavation business. I am in the oil tank

business. I install and remove oil tanks. The oil tanks that I remove by removing from the site where I am working are cleaned on site. Then, they are trucked to a scrap field. At times, I will keep new tanks that never had oil in them; I would keep on the property. They are usually there for 2 or 3 days. I order them in advance to make sure they have them in stock so that when I go to a property to install them, I already have them in.

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

Michael Hoensch: I could do that on the plan.

Comment #4: Pave the first 25' of the driveway.

Michael Hoensch: Yes.

Comment #5: State on the plan that no used oil tanks shall be off-loaded and/or stored on the premises.

Michael Hoensch: Correct.

Comment #6: Pay outstanding review fees.

Michael Hoensch: Yes.

Mr. Astorino: Do any Board members or Professionals have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Michael Hoensch application, please rise and state your name for the record. Let the record show no public comment. We received a letter from a neighbor, Jean M. Miller, dated 6/4/08 addressed to the Planning Board. The letter is stated as follow:

Dear Planning Board:

Turning into Spanktown Road from Union Corners Road and being greeted by various equipment vehicles, dump truck, trailer, backhoe, tanker truck, and other miscellaneous equipment, pulling in and out of the very first driveway can do nothing but decrease the value of homes on Spanktown Road.

Having such equipment in view on the property is an eyesore.

Walking on the road with my grandchildren becomes more hazardous with construction vehicles entering and exiting the site.

It is clear that pulling in and out of the existing driveway with large equipment and vehicles poses problems on this narrow country road. In addition there is little room between the existing driveway and Union Corners Road to maneuver trucks pulling trailers.

We are a community welcoming of newcomers. However, before I moved my contracting business to my new home, I would not have assumed that no proper approvals would be needed, and I would not have assumed that my new neighbors would be so naïve as to not possibly object to such a business.

I've been in my home on Spanktown Road since 1969. The sounds and sites of farm equipment and barns were way more typical then than now and not at all offensive. Many home based-contractors do a fine job of housing their equipment and being sure no part of their business bothers neighbors in any way. Shops and barns are placed out of sight and/or camouflaged with appropriate landscaping. I'm not convinced that this can be accomplished at 50 Spanktown Road.

The best possible solution in my eyes would be to locate the business in an area of the Town where such business is allowed at present.

Respectfully submitted,

Jean M. Miller.

Mr. Astorino: We went through a lot of the issues that were addressed here. The equipment is going to be housed inside. It is a permitted use in this zoning.

Mr. Fink: It is a special use permit.

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

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: Hoensch Class 2 Home Occupation

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed Class 2 Home Occupation involving one employee and use of construction vehicles, 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 3/26/08, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

Now Therefore Be It Resolved, that the Planning Board adopts the findings and conclusions relating to probable environmental effects contained within the attached EAF and Negative Declaration and authorizes the Chair to execute the EAF

and file the Negative Declaration in accordance with the applicable provisions of law, and

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

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

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

Mr. Kowal makes a motion on the Michael Hoensch application, granting Site Plan Approval and Special Use Permit for the construction and use of a Class 2 Home Occupation, situated on tax parcel S 17 B 1 L 21.192; project located on the southern side of Spanktown Road and the corner of Union Corners Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

1. If any equipment is used in the proposed Home Occupation, note on the plan where that equipment is stored.
2. Pave the first 25' of the driveway.
3. State on the plan that no used oil tanks shall be off-loaded and/or stored on the premises.
4. Pay Outstanding Review Fees.

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

Michael Hoensch: Thank you.

Review of Submitted Maps:

Pelton Crossing – Lot #10

Application for ***"Amended"*** Final Approval for 1-Lot in the Pelton Crossing / West View Estates subdivision, situated on tax parcel S 42 B 4 L 10 called Lot #10; parcel located on the eastern side of High Point Circle at the end of the cul-de-sac, in the SL zone, of the Town of Warwick.

Representing the applicant: Mr. Alan Lipman, Attorney. Keith Woodruff from Pietrzak & Pfau Engineering.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Revise title of plan to "Amended Subdivision Plan". Provide an approval block on the plan.
4. Submit a completed application and fees for Preliminary Subdivision Approval
5. Provide 9-1-1 addressing.
6. Revise the declaration and the recording information on the plan for Ridgeline Overlay Notes and Agricultural Notes.
7. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Pelton Crossing – Lot #10 – None submitted.

The following comment submitted by the ARB, dated 6/4/08:

Pelton Crossing – Lot #10 - Please provide architectural drawings and elevations of the proposed house for this lot prior to granting building permits. The ARB is critically aware of the discrepancies between the models shown in the sales literature and the final product. We believe it is in the best interest of the Town to have on file a true representation of the home models intended to be built in the subdivision.

Comment #1: Board to discuss SEQR.

Mr. Fink: I took a look at the threshold in the SEQR regulations. It is a Type 2 action. No SEQR review is necessary on this application. I have prepared a Resolution to that effect for the Planning Board.

Mr. Kowal makes a motion for the Type 2 Action.

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

617.6
State Environmental Quality Review (SEQR)
Resolution

Type 2 Action

Name of Action: Pelton Crossing Lot 10 Site Plan

Whereas, the Town of Warwick Planning Board is in receipt of a Site Plan application by Pelton Crossing, LLC for a ± 1.1 acre parcel of land located at High Point Circle, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 5/5/08 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(9) and, therefore, SEQR does not apply, and

Whereas, the Planning Board has determined that the proposed project is not within an agricultural district and, therefore, the requirements of 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 that no further review under SEQR is required.

Comment #2: Applicant to discuss project.

Mr. Lipman: This application is 1 of 49 lots that was approved in the West View Estates/Pelton Crossing subdivision. This particular lot, lot #10, was subject of a purchase arrangement by one of our customers. They wanted to relocate the house on the lot. Unfortunately, the location that they choose was the same location as where the septic had been located. We designed a new septic as it is shown on your plan. We show a new location for the house. This septic design has been reviewed by the OCHD. It has been approved by the OCHD.

Mr. Astorino: Zen, did you receive a letter from the OCHD?

Zen Wojcik: Yes. We received it yesterday, dated 5/27/08, the approval from OCHD for the revised septic system.

Comment #3: Revise title of plan to "Amended Subdivision Plan". Provide an approval block on the plan.

Keith Woodruff: We could do that.

Comment #4: Submit a completed application and fees for Preliminary Subdivision Approval.

Keith Woodruff: We could do that.

Comment #5: Provide 9-1-1 addressing.

Keith Woodruff: We could do that.

Comment #6: Revise the declaration and the recording information on the plan for Ridgeline Overlay Notes and Agricultural Notes.

Keith Woodruff: We could do that.

Comment #7: Pay outstanding review fees.

Mr. Lipman: Will do.

Mr. Astorino: Do any Board members or Professionals have any comments? Do you request to waive preliminary and final public hearings?

Mr. Lipman: Yes.

Mr. McConnell makes a motion to waive the preliminary and final public hearings.

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

Mr. Showalter makes a motion on the Pelton Crossing-Lot #10 application, granting *"Amended"* final approval for 1-Lot in the Pelton Crossing/West View Estates subdivision, situated on tax parcel S 42 B 4 L 10 called Lot #10; parcel located on the eastern side of High Point Circle at the end of the cul-de-sac, in the SL zone, of the Town of Warwick, subject to the following conditions:

1. Revise title of plan to "Amended Subdivision Plan". Provide an approval block on the plan.
2. Submit a completed application and fees for Preliminary Subdivision Approval
3. Provide 9-1-1 addressing.
4. Revise the Declaration and the Recording Information on the plan for Ridgeline Overlay Notes and Agricultural Notes.
5. Pay Outstanding Review Fees.

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

Keith Woodruff: Thank you.

Thomas Sobiech #2

Application for Site Plan Approval and Special Use Permit for the use of property as a staging yard – storage of construction vehicles, situated on tax parcels S 3 B 1 L 35.1, 35.2, and 35.3; project located on the western side of County Route 1 between Mission Land Road and Brozdowski Lane, in the AI/LB zones, of the Town of Warwick.

Representing the applicant: Roger Lupino, P.E. Tom Sobiech, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Approximately 4 acres of trees have been removed from the parcel without a building permit, and for non-agricultural purposes. Approximately 5000 sf of black dirt have been filled or converted. A violation has been issued by the Building Inspector for activities inconsistent with Chapter 150 of the Town Code.
   a. Board and applicant to discuss mitigation for tree removal.
   b. Board and applicant to discuss restoration of black dirt.
4. A non-residential structure within an Agricultural District has been converted to non-agricultural use without the prior approval of the Planning Board, in violation of Chapter 164 of the Town Code.
   a. Applicant has applied for a Special Use Permit for adaptive reuse of the agricultural structure on SBL 3-1-35.2 and the yard on SBL 3-1-35.2 & 35.3. Board and applicant to discuss.
   b. Adaptive reuse is permissible (by special use permit) in the AI zone. SBL 3-1-35.1 is divided by the AI and LB zoning line. Per §164-33E, AI zone regulations may extend 30' from the district line into the LB zone. Board and applicant to review proposed use of parcel.
   c. The operator of the construction yard is storing and dispensing diesel fuel on the site. Board and applicant to discuss conformance with NYS Fire Code.
5. Site lighting is provided in a manner inconsistent with Chapter 164 of the Town Code.
   a. The lighting has been modified since the violation was issued. However, the mounting height for the revised lighting is 20 feet. Floodlights are also mounted on a 40 foot tall pole, although their use may be discontinued. Per §164-43.4E(5), maximum height of a freestanding luminaire is 16 feet. Revise.
   b. Fixtures used on the site are a drop-bulb type fixture and floodlights. Shielding is required per §164-43.4E(3). Provide a detail showing how the fixtures will be shielded.
6. The operator of the yard is utilizing construction trailers as offices and box trailers for storage. Applicant to discuss length of time that these facilities will be occupying the site. Provide a bond for removal of the trailers, as specified by the Board.
7. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

<u>Thomas Sobiech #2</u> – None submitted.

The following comment submitted by the ARB, dated 6/4/08:

Thomas Sobiech #2 - Tone down and scale` down lights. Mitigate any noise from generators being used to power lights. We would suggest use of infrared lights for security which would have no adverse impact on neighboring houses or use of a security guard rather than excessive lighting on poles that are excessively high. Lights should also be canted to not produce glare into neighboring homes.

What will happen to this land after Precision Pipeline has finished its work? Will the special use permit allow subsequent similar staging and storing on the site? Is the special use permit conditional for this one use? Will it set a precedent for subsequent similar use?

What provisions are being made for hazardous materials being stored on the site? Fuels, lubricants and other contaminants from the trucks and repair may be spilled and leak into the Wallkill, the aquifer and into prime agricultural soils.

What type of conversion of the Black Dirt was done? What plan has been made for remediation of the Black Dirt? What spill control measures are in place? What emergency response plans are in place (not only here but wherever the Pipeline is being constructed throughout the Town)?

What impact will destruction of 4 acres of trees have on the sensitive Wallkill flood plain?

There is an immediate conflict that land that is protected by both the State and Federal governments is being jeopardized by the activities of a semi-autonomous Federal agency and its subcontractor.

Did FERC file a change of plan with the Town Planning Board since the current path of the pipeline differs from that originally presented? Did FERC comply with additional environmental and archaeological studies for the changed area of disturbance?

Comment #1: Board to discuss SEQR.

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

Mr. Kowal makes a motion for Lead Agency.

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

617.6

State Environmental Quality Review (SEQR)

Resolution Establishing Lead Agency

Unlisted Action Undergoing Uncoordinated Review

Name of Action: Sobiech Staging Yard, Construction Vehicle Storage and Adaptive Reuse

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan/Special Use Permit application by Thomas Sobiech for a ± 6.68 acre parcel of land located at Liberty Corners and Mission Land roads, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 5/2/08 was submitted at the time of application, and

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

Whereas, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed, forwarded to all owners of farm operations within 500 feet of the site, and then considered by the Planning Board, 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.

Roger Lupino: Essentially, the applicant had done work before receiving Planning Board approval. He doesn't feel that filling in 5000 s.f. of black dirt should be removed. It serves a purpose. School buses do make turnarounds in that area. He is questioning the extent of tree removal. I came up with a confrontation based upon an aerial photo. It primarily shows the crowns of the trees. It wasn't that dense. Two trees were removed…

Mr. Astorino: Let us go through the comments. We will address them as we go.

Comment #3: Approximately 4 acres of trees have been removed from the parcel without a building permit, and for non-agricultural purposes. Approximately 5000 sf of black dirt have been filled or converted. A violation has been issued by the Building Inspector for activities inconsistent with Chapter 150 of the Town Code.

a. Board and applicant to discuss mitigation for tree removal.
b. Board and applicant to discuss restoration of black dirt.

Mr. Astorino: Let's start with the trees. I don't know if 4 acres were removed. I know that we have seen the aerials. I don't know if anybody had done calculations out there. I have been around this area for a long time. I don't know if 4 acres of trees were removed. Russ, you grew up in that area. I am going to ask you.

Mr. Kowal: There were some trees in the area. They weren't very dense. It was probably a loading area that grew up over time. I don't think it was a 4-acre block of trees that came down.

Mr. Astorino: It wasn't a forest.

Mr. Kowal: Yes. It was something like that.

Tom Sobiech: The two parcels that are there are only 4 acres. They still have buildings, roads, blacktop, and concrete.

Mr. Showalter: There was not 4 acres of trees there.

Tom Sobiech: To make things easy, if we need to put some trees back, it would not be a problem.

Mr. Astorino: Ted, as far as the mitigation of trees, what are we looking for in this aspect?

Mr. Fink: I had planned to go out to the site before the meeting tonight, but I did not. I plan to go out to the site on Monday. After I get the chance to get out there and take some pictures, I will have a better sense on this.

Mr. Astorino: We will leave it to the Town Planner's review. In my opinion, it looks like the site was cleaned up more now than it was. Maybe, you could put in some trees to make it more practical. I will leave it up to your discretion.

Mr. McConnell: It is sort of difficult to say that the removal of trees cleaned up the site. By the Engineer's own comments what I had to look at because I am not familiar with the site was an aerial view that seemed to show something more than 3 scrub trees. I am in favor of mitigating by planting. I have no problem leaving it to Ted's review.

Mr. Astorino: My point being, it is mentioned in the comment and I mentioned this at the work session 4 acres of trees. 4 acres of trees are a lot of trees. There were no 4 acres of trees on that site. Russ grew up there. I know the area. There are no 4 acres of trees.

Mr. Singer: How many trees would you say was removed?

Tom Sobiech: Some of the trees were removed by O&R along the power lines to make it safer as far as nothing falling on that. I knew that I was under ¼-acre per parcel.

Mr. Astorino: We will defer it to Ted. He will go out to the site. We will put a comment to Town Planner's specifications.

Mr. McConnell: I think the question was how many trees? Are we talking about 3, 15, or 20 trees?

Tom Sobiech: No. It was less than 15 trees.

Mr. McConnell: What was the average size in terms of diameter?

Tom Sobiech: Some of them were willow trees. They were horrible trees.

Roger Lupino: It was second growth.

Tom Sobiech: There were a lot of second growth trees.

Mr. Singer: You are not answering his question.

Mr. McConnell: You are giving me reasons and defenses. What I am asking for are the facts. How many trees? How big in diameter?

Tom Sobiech: I would say about 15 trees.

Mr. McConnell: You say 15 trees. Ok. I don't know whether that is right or not. How about the diameter?

Roger Lupino: I would say about 6" in diameter.

Mr. McConnell: So, we are not talking about saplings. We are talking about real trees.

Mr. Astorino: Ted, go out to the site and make an assessment.

Mr. Fink: Yes.

Mr. McConnell: Trees tend to soften the lines of the buildings and so on. I think it is appropriate.

Mr. Astorino: My point is that they are across black dirt fields.

Mr. McConnell: People drive past there every day. We are trying to attract the ecotourism.

Mr. Singer: Where on the property were these 15 trees?

Tom Sobiech: They were along the road near the power lines. They were not near Mission Land Road. They were near Brozdowski Lane.

Mr. Astorino: We will leave it to Ted. Is the Board ok with leaving it to Ted's discretion?

Mr. McConnell: Yes.

Mr. Astorino: We will make a comment to that effect.

Mr. McConnell: I just wanted to get it on the record that we are not talking about 3 scrub trees that somebody cut down with a lawnmower.

Mr. Astorino: I agree. Let us discuss the restoration of black dirt. Zen, is that the wetlands?

Zen Wojcik: It is a wetland.

Tom Sobiech: But, it is less than 1/4-acre. The violation said that it was more than 1/4-acre.

Zen Wojcik: Also, this land had been converted as part of a yard for the construction of a pipeline project. The pipeline project is Federally regulated. The findings that the Millennium Pipeline Company had made to the government, their statement states that no black dirt will be filled. 5,000 s.f. of black dirt had been filled. I didn't go out and measure it. They are saying 5,000 s.f.. This Town in general does not encourage the filling of any black dirt. It is a valuable resource. 5,000 s.f. of black dirt is not an awful lot. I don't know if it was actively farmed at any time at all. That doesn't matter. We are talking about a unique resource of the Town that has been filled in contradiction to what the company itself said that it was going to protect as part of its findings to the Federal government for putting a yard there.

Tom Sobiech: You see that the school buses are using it to turnaround. If you take the black dirt up, you will have to tell them not to turnaround anymore. Then, it would become unsafe ground.

Mr. Singer: Did you give the school bus permission to turnaround?

Tom Sobiech: They just turnaround. Every day they turnaround on it.

Roger Lupino: They didn't come to you for permission.

Tom Sobiech: They did not come to me for permission. It has been happening the past 5 to 10 years. You could see in the picture that I shot a week ago that they use it as a turnaround.

Mr. Showalter: As I understand it, they put a mat down over the black dirt so that the material could be removed and restored. It sounds like it is fairly easy.

Mr. Astorino: My next point to Ted is that we cannot give a permit for filling black dirt. Is that correct? That is not our purview. If this a wetland to protect the wetland, we have no jurisdiction to say ok or not ok. That is a violation. That would have to be removed. Is that correct?

Mr. Fink: If it is a wetland area, that is an ACOE issue.

Mr. Astorino: That is what I am saying.

Tom Sobiech: It is less than ¼-acre. The violation said more than ¼-acre.

Zen Wojcik: The ACOE regulates wetlands. This would be a Nationwide Permit. Their line is ¼-acre.

Tom Sobiech: I am under ¼-acre.

Zen Wojcik: Yes. That doesn't mean that it is encouraged. I think if the applicant was to restore this… We understand that it is being used right now. It has been filled in a manner by which it could be converted back to what it was before. Maybe, the Planning Board wants to

say that it is fine for the use of the yard. At same stage, it should be restored to black dirt. Maybe that would be sufficient.

Mr. Astorino: That would be the Board's decision to make.

Comment #4: A non-residential structure within an Agricultural District has been converted to non-agricultural use without the prior approval of the Planning Board, in violation of Chapter 164 of the Town Code.

a. Applicant has applied for a Special Use Permit for adaptive reuse of the agricultural structure on SBL 3-1-35.2 and the yard on SBL 3-1-35.2 & 35.3. Board and applicant to discuss.

   Mr. Astorino: This is the adaptive reuse to this storage yard. Is that correct?

   Zen Wojcik: According to the Code, with the activity there, it would be permissible for adaptive reuse if the applicant applied for adaptive reuse before the yard was converted. If this is his desire, then the Board could act on it.

   Mr. Astorino: That is why they are here.

b. Adaptive reuse is permissible (by special use permit) in the AI zone. SBL 3-1-35.1 is divided by the AI and LB zoning line. Per §164-33E, AI zone regulations may extend 30' from the district line into the LB zone. Board and applicant to review proposed use of parcel.

   Zen Wojcik: Right now, it is being used as a construction yard. In the code, there is a list of several different uses that could happen with adaptive reuse. This is a benefit for the applicant to have on the plan the proposed adaptive reuse that could be used in this particular area. In the future, when somebody comes in and wants to use it for something else, the Building Department wouldn't have to try to figure out whether it is allowable or not. We ask the applicant to put the notes on the plan from that section of the code showing what the potential uses are.

   Mr. Astorino: That makes sense.

   Tom Sobiech: Right.

c. The operator of the construction yard is storing and dispensing diesel fuel on the site. Board and applicant to discuss conformance with NYS Fire Code.

   Mr. Astorino: Zen, does that encompass the safe handling of the fuel of fueling the equipment?

   Zen Wojcik: Yes. It encompasses the handling, storage, etc…

   Mr. Astorino: Ok. We will request that from the applicant.

Mr. McConnell: I think that also requires what you had said at the work session, the notification of local emergency responders.

Tom Sobiech: Showing a document, this is their in house. Millennium put it together. It is a provision of their spill response for their safety person.

Mr. Astorino: Was this handout given to all the emergency personnel?

Tom Sobiech: They have their safety people.

Mr. Astorino: I am talking about the Pine Island Fire Department.

Zen Wojcik: There was a document that I received from Millennium that we gave to Pine Island Fire Department, which was about 7 pages long. You are only showing ½ page.

Tom Sobiech: Showing a photo, I am showing you on the yard, their tank as per their safety and regulations.

Zen Wojcik: That is the point. The regulations are quite extensive. In the past couple years, this Board had a review of an oil facility. They had to follow similar regulations. I will work with your engineer. We will get the appropriate notes placed on the plans to make sure that the Building Department can ascertain that is being followed on this site.

Mr. Astorino: That shouldn't be a problem. They have to follow the protocol regardless.

Comment #5: Site lighting is provided in a manner inconsistent with Chapter 164 of the Town Code.

a. The lighting has been modified since the violation was issued. However, the mounting height for the revised lighting is 20 feet. Floodlights are also mounted on a 40 foot tall pole, although their use may be discontinued. Per §164-43.4E(5), maximum height of a freestanding luminaire is 16 feet. Revise.

Roger Lupino: Ok. In the last couple of days they have been lowered.

Mr. Astorino: Ok. All the lights meet the 16 feet requirement right now.

Tom Sobiech: Yes.

Zen Wojcik: Have they been shielded?

Tom Sobiech: They are filtered.

Roger Lupino: Zen, you now have a situation where they are so low that the building along Brozdowski Lane blocks the light from the residence.

Zen Wojcik: The code states certain types of lights, just like the lights you have out there-high-pressure sodium light-has to be shielded. 16 feet is the maximum height. At 16 feet high, the fixtures have to be shielded. Are they shielded? If they are not shielded, figure out a way to shield them. Put it on the plans so the Board could see that this activity will happen. The code requires shielding.

Tom Sobiech: They filtered the lights.

Zen Wojcik: What do you mean by filtering?

Tom Sobiech: They put a special filter over the top of the lens.

Zen Wojcik: Does that prevent it from shining outwards to only shining downward?

Tom Sobiech: We took one step better. We filtered them.

Mr. Showalter: Does that mean the lens is fluted to direct the light?

Tom Sobiech: Maybe they are filtered as to shining down on the lens. Come to the yard at night and take a look.

Zen Wojcik: It gets dark every night. I don't think we should be guessing on what you are doing.

Mr. Astorino: Ted or Zen, go out there at night and take a look.

Zen Wojcik: I will do that.

Mr. McConnell: These pictures don't look like anything that I would call shielded.

Mr. Astorino: We will find out whether filtering means shielding or we don't know. Let us get it to conform to the Code.

b. Fixtures used on the site are a drop-bulb type fixture and floodlights. Shielding is required per §164-43.4E(3). Provide a detail showing how the fixtures will be shielded.

Mr. Astorino: Whoever put those filters on, let them explain by proving to our guys that they would do the same thing as shielding them.

Roger Lupino: Do you want a letter from the electrician?

Mr. Astorino: Whoever did the work.

Zen Wojcik: You will need to provide shielding. The code is explicit that it can't shine out more than 90 degrees.

Mr. Astorino: You will need to find out.

Comment #6: The operator of the yard is utilizing construction trailers as offices and box trailers for storage. Applicant to discuss length of time that these facilities will be occupying the site. Provide a bond for removal of the trailers, as specified by the Board.

Tom Sobiech: Yes.

Mr. McConnell: I didn't hear a discussion on the length of time that these facilities will be occupying the site. Was there a discussion that I missed?

Mr. Astorino: How long are they going to be there?

Tom Sobiech: When they finish the project.

Mr. Astorino: Would a good guess be November?

Mr. McConnell: I am not in the business of guessing. I would like the applicant to tell us.

Tom Sobiech: It won't be November. Their target date is November. I don't think it will be November.

Mr. Astorino: After talking to the Millennium people out here, they figured from this area to Tuxedo would be done by the middle of July.

Mr. Kowal: They haven't moved for 2 weeks from here.

Mr. Astorino: I talked to the head person the other day. He said that their drop dead date to be out of here to Tuxedo would be July. Whether that is true or not, I don't know.

Zen Wojcik: I spoke to a guy today. He said that they are behind schedule.

Mr. Astorino: Talk to them. Get a date.

Mr. McConnell: Have them provide you with a letter to us telling us how long they expect to be there. That way, nobody would be guessing.

Tom Sobiech: Once they finish the project, they will leave.

Mr. Astorino: Then, they should have a target date on when they will be leaving.

Mr. Singer: Are you being paid rent for this property?

Tom Sobiech: Yes.

Mr. Singer: Don't you have a term of lease?

Tom Sobiech: We went for one year. It is from November 2007 to November 2008.

Mr. Singer: Ok.

Mr. Astorino: Then, I would say to November.

Mr. Singer: If they go past November, you would get more rent.

Tom Sobiech: Yes.

Mr. Astorino: Then, I would say that November would be a good date to put on the plans. At least, you would be covered for your term. If they leave before, so be it. If they leave after, it has to be revised.

Comment #7: Pay outstanding review fees.

Tom Sobiech: Yes.

Roger Lupino: Mr. Chairman, another item cropped up that wasn't on the agenda. Yesterday, I received a copy of a letter from OCDPW addressed to the Planning Board. On that letter, they had their comments. Is this under their purview?

Mr. Astorino: Doesn't this come out of Mission Land Road?

Zen Wojcik: The reason is that it fronts on C.R. #1. The County took a look at it. There is also a migrant camp with a couple of buildings for the farm laborers. That has a driveway entrance out onto a County Highway. Maybe you never had an approval for that. I don't know. But, reading through the letter, when the County looks at a project, they ask how does it affect a County Road. They determined that you have a driveway going out onto a County Road which has no relationship to the application before the Town. Nevertheless, it is relevant to the 3 parcels/lots that are part of this application. They want you to upgrade that driveway entrance onto their highway. It is their highway. They have their rules.

Mr. Astorino: Maybe, you would want to address that with the County.

Zen Wojcik: Typically, whenever we receive comments from the County, they are incorporated as part of the comments of the Town as well.

Mr. Astorino: All right.

Tom Sobiech: That driveway has been there as long as when the railroad was taken away around 1958 or 1960. It didn't change the driveway or anything.

Zen Wojcik: If you want to go and argue with the County, go right ahead.

Mr. Astorino: Maybe, you would want to touch base with the County.

Tom Sobiech: I will call the County to find out.

Zen Wojcik: They will tell you how to make the driveway right.

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

Mr. Singer: I have a question for Ted and Zen. This filling in of the black dirt, is the violation the filling in of wetlands or filling in black dirt specifically. What is the violation?

Mr. Astorino: Is there a difference?

Zen Wojcik: The terminology that the ACROE uses is conversion. It is converting wetlands. If you convert wetlands by filling them or if you convert wetlands by putting additional water into them, it is converting wetlands.

Mr. Singer: Is there a further option for the applicant to provide similar wetlands elsewhere if he fills this up?

Zen Wojcik: That is not under Federal regulations.

Mr. Singer: Ok.

Tom Sobiech: It is less than ¼-acre. It is not a productive farmland. It had a greenhouse on that portion 12 to 15 years ago. 15 years ago, my dad had greenhouses and a structure there.

Zen Wojcik: You could have a greenhouse because that is an agricultural activity.

Mr. Astorino: It is an issue that the Board would have to discuss. We received a comment from the ARB, dated 6/4/08. The ARB comments seem more like Planning Board comments than ARB comments. I think we have addressed most of them. Do you request to be set for a public hearing?

Tom Sobiech: Yes.

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

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

Tom Sobiech: Thank you.

Roger Lupino: Thank you.

Marco Giovannoli Subdivision

Application for sketch plat review of a proposed 3-Lot (Minor) subdivision, situated on tax parcel S 12 B 3 L 33; parcel located on the northern side of Little Brooklyn Road 830± feet east of County Route 1, in the AI zone, of the Town of Warwick. Previously discussed at the 2/7/07 Planning Board meeting.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Marco Giovannoli, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Board to discuss site visit.
4. Lots 2 and 3 are proposed flag lots. Per §137-21K(2), "combined frontage of the flag lot and front lot … must be twice the minimum frontage within [the] zone." Minimum frontage is 150 feet; therefore, for two flag lots plus front lot, frontage should be 450 feet. Parcel has ±225 feet of frontage. Applicant to discuss.
5. Show driveways for adjoining lots and lots across road.
6. Provide S.C.S. soil mapping on these revised plans.
7. Provide sight distance triangles at driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Include a note that the area of the triangles shall be kept free from visual obstructions.
8. Applicant to discuss site drainage.

The following comment submitted by the Conservation Board:

<u>Giovannoli Subdivision</u> – None submitted.

The following comment submitted by the ARB, dated 6/4/08:

<u>Giovannoli Subdivision</u> – The ARB had no further comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared itself Lead Agency on this application using the short EAF. The SEQR issue that is outstanding is the verification of wetlands or jurisdictional determination. Are you going for a JD or Town route?

Dave Getz: We are going the Town route. I talked to Dave Griggs about it. He will contact you.

Mr. Fink: Ok.

Comment #2: Applicant to discuss project.

Dave Getz: Mr. Giovannoli owns approximately a little less than 10 acres on Little Brooklyn Road. Since we last appeared before the Planning Board a little more than a year ago, we have received more detailed information on wetland, delineation, topography, and existing

uses on the property. The plan calls for a 3-lot subdivision where the existing house remains. We are proposing two new homes in the meadow area where we had walked. We are not proposing any disturbance to the existing wetlands.

Comment #3: Board to discuss site visit.

Dave Getz: We talked about driveway locations. Our earlier version of the plan showed that access to the 2 new lots would come in from the existing driveway that also serves the neighbor's house, Mr. and Mrs. Cote. The new plan that is before you shows a driveway. I believe the consensus was to keep it instead of disturbing that existing driveway. We want to keep the driveway closer to Mr. Giovannoli's garage and house so that the new driveway would not affect the neighbor's access or the hedge that is there now.

Mr. McConnell: At the work session, didn't we reach a consensus where we thought using the driveway that actually fed the applicant's home would be really preferable so that we would not have another cut on the road.

Dave Getz: That is true. He has a looped driveway. This is taking advantage of that.

Mr. McConnell: Ok. It might be appropriate to refresh our memory on this that the driveway is being changed from what we had seen when we went out there. We should consider about maybe scheduling another site visit or do a drive by.

Mr. Astorino: You could do a drive by.

Dave Getz: We took a picture today to show you that might refresh your memory.

Mr. Astorino: Ok. Submit that for the record. If the Board wants, do a drive by of the site.

Comment #4: Lots 2 and 3 are proposed flag lots. Per §137-21K(2), "combined frontage of the flag lot and front lot … must be twice the minimum frontage within [the] zone." Minimum frontage is 150 feet; therefore, for two flag lots plus front lot, frontage should be 450 feet. Parcel has ±225 feet of frontage. Applicant to discuss.

Dave Getz: We talked about this at the work session. We requested the possibility of a waiver of the flag lot standards. It sounds like the Town is leaning towards a private road.

Mr. Astorino: That would alleviate the flag lot.

Zen Wojcik: Yes. The frontage would be along the private road.

Mr. Astorino: You don't need a 20-foot wide private road.

Zen Wojcik: It would be up to the Planning Board's discretion.

Mr. Astorino: There are only 3 houses. We could scale down that road.

Dave Getz: The first house branches off. It is only for 2 houses.

Mr. Astorino: That is what I am saying. We don't need this huge road blown through there.

Mr. McConnell: Let us consider it.

Dave Getz: We will draw up a 16-foot driveway for your consideration.

Mr. McConnell: No. It would be to 16-foot private road specifications.

Mr. Astorino: I think that would alleviate the big mess.

Mr. McConnell: Right.

Dave Getz: We discussed this topic at the work session. When it is private road specifications, does that require geotechnical design? That would be quite extensive ordeal.

Zen Wojcik: We could talk about that at the work session.

Dave Getz: Ok.

Mr. McConnell: If you are going to bring that up at a work session, maybe you could prepare us with some facts as to what would be involved if you had to meet with the geotechnical standard and what you would be proposing. Make a case so we understand.

Dave Getz: Ok.

Comment #5: Show driveways for adjoining lots and lots across road.

Dave Getz: Will do.

Comment #6: Provide S.C.S. soil mapping on these revised plans.

Dave Getz: Ok.

Comment #7: Provide sight distance triangles at driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Include a note that the area of the triangles shall be kept free from visual obstructions.

Dave Getz: Ok.

Comment #8: Applicant to discuss site drainage.

Dave Getz: Zen had mentioned that a neighbor had written a letter or it was discussed with you.

Zen Wojcik: It was a conversation that we had.

Dave Getz: They stated that at times there is a real heavy flow of runoff across the property through the center along the proximate route of the new private road.

Zen Wojcik: She told me that it was coming across the existing common driveway of Mr. and Mrs. Cote. Then, it goes onto the Giovannoli property up to the black dirt. It sounds like it would be exactly where you would be building the road.

Dave Getz: I took a ride out there today. I took some photos. I will submit a copy of these photos. There is no evidence of any washout. We had some significant downpours within the last week. One point is that I don't see any existing problem. Also, with the new design and with the design of the 2 new homes with the access to it, both homes will not have a basement. The grade on them will be raised slightly. The driveway will be slightly lower so that if there is heavy flow during a severe storm, it would bypass the homes and continue down towards the rear of the property. I don't think we would be creating any risk to the new applicant or the new homeowners.

Zen Wojcik: When water comes off this driveway, it is not flowing directly into the black dirt that is in the back of the property. There is still some upland.

Dave Getz: Yes. There is quite a bit. On the plan, the houses are here. This is more than 100 feet.

Zen Wojcik: We are talking about more than 100 feet.

Dave Getz: The black dirt in the shaded area coinsides with the wetlands in the black dirt. They are very close.

Mr. McConnell: These pictures seem to have pervious surface that you would be replacing with impervious surface. It may be as presently configured that it could handle the run. But, if you change that impervious surface, it may have an effect.

Dave Getz: We have increased runoff. But, it is not a steep slope. It is not a severe situation. It not that much additional impervious.

Mr. McConnell: Ok.

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

Dave Getz: We request to be set for a public hearing.

Mr. Astorino: Ok. Ted, do we still have to get Karen out there for the wetlands?

Mr. Fink: Yes.

Mr. Astorino: We could still set them for a public hearing. Once they have all their information, then we could put them on for a public hearing. If not, we won't put them on for a public hearing.

Mr. McConnell makes a motion to set the Marco Giovannoli application for a Final Public Hearing at the next available agenda.

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

Dave Getz: Thank you.

Vaughan and Anne Wiles #2 Subdivision

Application for sketch plat review of a proposed 4-Lot (Minor) Conservation Density subdivision, situated on tax parcels S 26 B 1 L 1.225 and L 71; parcels located on the northern side of Amity Road 230 feet west of Little York Road, in the RU zone, of the Town of Warwick. Previously discussed at the 9/19/07 Planning Board meeting.

Representing the applicant: Dave Getz from Lehman & Getz Engineering.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Board to discuss site visit.
4. Renumber General Notes "10" and "11", appearing below the Overlay District box. General Note "10" refers to a "detailed topographic survey". Supplement the information for this survey into General Note 10 (referring to topography).
5. The Common Drive Profile shows a maximum grade of 14%. The Code allows a maximum 12% grade (§164-41.2K(5)). Applicant requests a waiver.

BEFORE FINAL APPROVAL:

6. Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, and Common Driveway and Drainage Use and Maintenance Agreement Notes.
7. Parcel is underlain by Franklin Marble. Provide Franklin Marble Construction Note and the declaration and recording information for Radon Reduction Notes.
8. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space.
9. Pay performance bond and construction inspection fee for common driveway, stormwater management facilities, and erosion control.
10. Pay parkland fees.
11. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Wiles #2 Subdivision – None Submitted.

The following comment submitted by the ARB, dated 6/4/08:

Wiles #2 Subdivision – The ARB had no further comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared itself Lead Agency on this application. There are a couple comments in the review comments tonight that relate to SEQR. The other issue was whether it would need an Aquifer Impact Assessment. Zen, I will leave that to you to comment on that.

Zen Wojcik: We took a look to see if this site needed an Aquifer Impact Assessment. I sat down with Tectonic's Hydrogeologist. We took a look at that. There are 3 lots proposed that are within the Aquifer Protection Overlay. The area is generally under laid by Franklin Marble. However, it is an area where we do have some (geologic) non-conformities. It is an area that does have water. On the basis of our review with the Hydrogeologist, we don't think that 3 additional lots in this area would do any substantial damage to the Aquifer. We don't recommend that there should be an Aquifer Impact Assessment.

Comment #2: Applicant to discuss project.

Dave Getz: We have done a site visit. It is a Conservation Density subdivision with a proposed private road. There were no significant changes to the layout in the plans since you have last seen it. Connie, I believe you will be sending this application out to OCDPW.

Connie Sardo: That has gone out as of today.

Dave Getz: Ok.

Comment #3: Board to discuss site visit.

Mr. Astorino: Does the Board have anything regarding the site visit? I know there were some steep slopes.

Mr. McConnell: I didn't go on this site visit.

Zen Wojcik: Mr. Chairman, I just wanted to remind the Board that the common driveway that is proposed right now for the 3 lots goes along that steep slope. They would require some excavation into the slope and some bank fill on that. It would be a significant impact on that slope. We are trying to imagine what it would look like. We see it on paper as two dimensions. Keep it in mind when there is a waiver requested for the steepest slope.

Mr. Astorino: Yes. Keep in mind what we would be looking at.

Dave Getz: Yes.

Mr. Astorino: Does the Board have anything else regarding the site visit? We are aware with what is out there.

Comment #4: Renumber General Notes "10" and "11", appearing below the Overlay District box. General Note "10" refers to a "detailed topographic survey". Supplement the information for this survey into General Note 10 (referring to topography).

Dave Getz: We will clarify that.

Comment #5: The Common Drive Profile shows a maximum grade of 14%. The Code allows a maximum 12% grade (§164-41.2K(5)). Applicant requests a waiver.

Mr. Astorino: Dave, would that be for the cuts and fills?

Dave Getz: Yes.

Mr. Astorino: That would something for the Board to discuss.

Mr. Kowal: How much longer would it be?

Dave Getz: It is proposed at 14% from approximately Station 100 to Station 440. It is about 340 feet. It would about half of that. It would be a little less than half.

Mr. Kowal: So, half of it would be over 12%.

Dave Getz: Yes. It would be between a 1/3 and ½ of it.

Mr. McConnell: Is that the half that is the closest to the houses?

Dave Getz: No. It is closer to the start of the road. The first 100 feet is a dip. Then, we start up the hill. The end of the driveway is Station 950. This is proposed between Stations 100 and 440.

Mr. McConnell: Ok.

Mr. Astorino: That is something we could discuss as we go along with this project.

Dave Getz: When you mentioned about the waivers, there was something that came up at the work session. We submitted a plan showing a theoretical conforming plan with a 400-foot square. It wasn't clear under the Conservation Density if that square was required or not. We have shown that we could get 4 lots fitting that square, if needed.

BEFORE FINAL APPROVAL:

Comment #6: Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, and Common Driveway and Drainage Use and Maintenance Agreement Notes.

Dave Getz: Ok.

Comment #7: Parcel is underlain by Franklin Marble. Provide Franklin Marble Construction Note and the declaration and recording information for Radon Reduction Notes.

Dave Getz: Will do.

Comment #8: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space.

Dave Getz: Ok.

Comment #9: Pay performance bond and construction inspection fee for common driveway, stormwater management facilities, and erosion control.

Dave Getz: Ok.

Comment #10: Pay parkland fees.

Dave Getz: Ok.

Comment #11: Pay outstanding review fees.

Dave Getz: Ok.

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

Dave Getz: We request to be set for a public hearing.

Mr. McConnell makes a motion to set the Vaughan and Anne Wiles #2 application for a Final Public Hearing at the next available agenda.

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

Dave Getz: Thank you.

Gary Randall Guesthouse

Application for Site Plan Approval and Special Use Permit for the construction and use of a guesthouse located within the Ridgeline Overlay District, situated on tax parcel S 19 B 1 L 47.2; project located on the western side of Route 94 driveway is 500+ feet north of Minturn Road, in the MT zone, of the Town of Warwick.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Gary Randall, Applicant.

The following review comment submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. The Bulk Table references §164-41.1F, Cluster Subdivision. Revise for appropriate use group.
4. In General Note #7, provide the date of the referenced survey.
5. All symbols and linetypes shall be shown in the Legend.
6. Provide an approval block on the plan.
7. Provide a profile of the driveway.
8. Show the limit of disturbance; calculate and note the area.
9. Revise the plans and add information in conformance with the Site Plan checklist.

The following comment submitted by the Conservation Board:

Gary Randall Guesthouse – None submitted.

The following comment submitted by the ARB, dated 6/4/08:

Gary Randall Guesthouse - The ARB would like to see floor plans and perhaps the other sides of the guesthouse. We note that the drawing does not conform to the foot print shown on the site plan and would like a better understanding of how this 77.5 ft. long x 22.6 ft. wide building will sit on the site and the internal layout.

We would also like to see photos of the existing house and buildings on the property and how this rather whimsical guesthouse will fit into the overall design of the property. Given the current dense screening of the property, we realize that the guesthouse will be fairly well screened from view for the foreseeable future.

Please note that the frost line is 48” locally, not the 36” inches noted on the drawings.

Comment #1: Board to discuss SEQR.

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

Mr. Kowal makes a motion for Lead Agency.

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

617.6

State Environmental Quality Review (SEQR)

Resolution Establishing Lead Agency

Unlisted Action Undergoing Uncoordinated Review

Name of Action: Randall Guest House

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan/Special Use Permit application by Gary Randall for a ± 57 acre parcel of land located at 675 New York State Route 94, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 5/13/08 was submitted at the time of application, and

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

Whereas, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed, forwarded to all owners of farm operations within 500 feet of the site, and then considered by the Planning Board, 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.

Dave Getz: The Randall's own about 58 acres. It is located off Route 94. You recently reviewed a cell tower that was approved and built on this site. Gary, how long ago was that done?

Gary Randall: That was approved about 2 years ago.

Dave Getz: Gary, how long have you lived at this site?

Gary Randall: I have been living there for 25 years.

Dave Getz: They have lived there for quite awhile. They propose to build a guesthouse which is a smaller house than what they have now.

Gary Randall: It would be approximately 2000 square feet in size.

Dave Getz: We show a theoretical property line to divide into 2 lots. They do not propose to subdivide at this time. They would just like to have approval to build a guesthouse.

Mr. Singer: What is a guesthouse?

Dave Getz: It is a 2nd dwelling on the same lot that has to follow a certain criteria. It has to be smaller than the original house. We have to demonstrate that the lot is big enough and all the parameters could be met so that a subdivision could be provided. It allows them to build a 2nd house on the property without going through the final stages of a subdivision process.

Mr. Singer: I thought we couldn't build two houses on one lot. Is that what we are doing here?

Mr. McConnell: The code provides for the ability to build a guesthouse with the limitations as they have described.

Mr. Astorino: Carl, you are thinking about like the one we had to do on the Grill subdivision. She would had to lose it in order to get the lot. This is not like the Grill application.

Mr. McConnell: That one was not doable. You had to demonstrate that you could do a subdivision of the property. Mrs. Grill couldn't do that and still get the 3 additional houses that she wanted. She couldn't demonstrate that she could subdivide the property to allow for a conforming lot and house and still get the 3 additional houses that she wanted through the subdivision. Maybe that is why you are thinking that it couldn't be done on this one.

Mr. Singer: I don't recall any other time where we approved for a guesthouse.

Mr. Fink: There have been a few that we approved.

Mr. Astorino: Yes. We have done a few like this one.

Comment #3: The Bulk Table references §164-41.1F, Cluster Subdivision. Revise for appropriate use group.

Dave Getz: I am not sure on this.

Zen Wojcik: We have talked about this at the work session. The rationale was for it to be a conservation density. It is not a conservation density. It is not a subdivision.

Mr. Astorino: It is not even a cluster subdivision.

Zen Wojcik: The Bulk Table should reflect what the bulk requirements are for that zone.

Dave Getz: It was my impression when we met with Mr. Bollenbach that we show the theoretical subdivision as a conservation density. If we don't do that and we go for 2 conforming lots, we would not have sufficient lot width. We would have to go for a variance.

Zen Wojcik: Maybe, you could clarify it as being theoretical. Do a Bulk Table for a theoretical subdivision.

Dave Getz: Ok.

Comment #4: In General Note #7, provide the date of the referenced survey.

Dave Getz: Will do.

Comment #5: All symbols and linetypes shall be shown in the Legend.

Dave Getz: Ok.

Comment #6: Provide an approval block on the plan.

Dave Getz: Will do.

Comment #7: Provide a profile of the driveway.

Dave Getz: Do you want that for the new portion of the driveway?

Zen Wojcik: Yes.

Dave Getz: Ok.

Mr. Singer: What is the slope there? It look like to me about 20%.

Dave Getz: The existing driveway, I don't know. There are steep portions. It has recently been paved. It is in very good condition.

Mr. Singer: The existing driveway is 20% and the new driveway will be 20%.

Dave Getz: No. The new driveway is not steep. It is cutting across in a nice gentle slope.

Comment #8: Show the limit of disturbance; calculate and note the area.

Dave Getz: Ok.

Comment #9: Revise the plans and add information in conformance with the Site Plan checklist.

Dave Getz: We will do that. We have done soil testing last week for the septic system. We received good results. We will pursue with those plans.

Mr. Astorino: Do any Board members or Professionals have any comments? We have a comment from the ARB, dated 6/4/08 for the record.

Gary Randall: I have a question, that part of the parcel is a total shale bank. What are the requirements? Do I have to dig through the shale?

Mr. Astorino: Zen, what is the frost line?

Zen Wojcik: It is 48".

Gary Randall: I am on a shale bank, which is rock. It is solid. I am not going to be going up or down if it frosts. Do I have to build 48" above?

Zen Wojcik: If you are talking about is how your foundation will be set up. What this Board has been reviewing in the past when we had houses proposed on steeper slopes where the soils were very thin, the Board has asked the applicant to have a geotechnical scientist take a look at it where the rock is competant for anchorage for the foundation onto that rock. There are methodologies of doing that. There are a number of things. We have had at least two reports that the Board took a look at where proposals were made that foundations would be anchored onto a rock and it would be quite ok in doing that. You might want to think about that.

Gary Randall: Ok.

Mr. Singer: I think you are being extreme there. The two cases that you mentioned were because we were concerned about the slope. That is not the case here.

Mr. Astorino: Wouldn't these requirements be in the building permit?

Zen Wojcik: I believe so. I could check with Mr. Batz to find out. Maybe the State has specific requirements.

Mr. Astorino: Check with Mr. Batz before you get too crazy.

Dave Getz: At the work session, we mentioned that we are preparing a Visual EAF Addendum. It is a scenic highway. Based on that analysis and being out to the site, it would be very well hidden from Route 94. We request to be set for a public hearing.

Zen Wojcik: Mr. Chairman, the last comment, comment #9 states; revise the plans and add information in conformance with the site plan checklist. It is not even close to sketch plan checklist at this point.

Mr. Astorino: Dave, you will need to submit again. Have you done soil test?

Dave Getz: Yes.

Zen Wojcik: You have just done them. We don't have the design yet or anything.

Mr. Astorino: Dave, submit revise plans to us one more time before we set you for a public hearing.

Dave Getz: Ok. Thank you.

Other Considerations:

1.) Planning Board to discuss cancelling the 6/23/08 Work Session and the 7/2/08 Planning Board meeting – due to the July 4th Holiday!

Mr. McConnell makes a motion to cancel the 6/23/08 Work Session and the 7/2/08 Planning Board meeting.

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

2.) **Millers Ridge –** Letter from Kirk Rother, dated 5/9/08 addressed to Planning Board in regards to requesting a 6-Month Extension on Preliminary Approval of a proposed 16-Lot Cluster + 1-Affordable Residential Lot + 1-Commercial Lot subdivision, SBL # 51-1-7.41 & 41. Preliminary Approval was granted on, 12/5/07. *The applicant is in the process of completing well testing on the property as required by the OCHD.* The 6-Month Extension becomes effective on, 6/5/08.

Mr. McConnell makes a motion on the Millers Ridge application, granting a 6-Month Extension on preliminary approval of a proposed 16-Lot Cluster + 1-Affordable Residential Lot + 1-Commercial Lot subdivision, SBL # 51-1-7.41 and 41. Preliminary Approval was granted on, 12/5/07. The 6-Month Extension becomes effective on, 6/5/08.

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

3.) **Perry Subdivision –** Letter from Lewis and Yolanda Perry, dated 5/23/08 addressed to Planning Board in regards to a 1st 90-Day Extension on Final Approval of a proposed 2-Lot subdivision, SBL # 58-2-11.22. Final Approval was granted on, 12/5/07. *The applicant's attorney, Stuart Nahas has been conferring with Mr. Bollenbach regarding the required Private Road Notes Declaration and Recording Information, which must be provided. Mr. Bollenbach has requested a description of Riley Court. The Applicant is currently awaiting information from their Engineer regarding this information.* The 1st 90-Day Extension becomes effective on, 6/5/08.

Mr. Singer: I have a problem with this. We had extensive talks with this application about this driveway. Now, he want to talk about it all over again.

Mr. Astorino: I can't speak for John Bollenbach. If he is requesting this information, there must be a reason for it.

Mr. Singer: Zen, what do you know about it?

Zen Wojcik: It is for the use and maintenance agreement because there was no road. We walked through the woods to get to this site. John had asked to describe where the limits of the road are so that we would know where they would be going with this. We are looking for a description of Riley Court.

Mr. Singer: But, this is regarding the required private road notes. It has nothing to do with the use and maintenance agreement.

Zen Wojcik: That is what they mean. It is the use and maintenance agreement.

Mr. McConnell: They have to give a description of the road for the private road notes and the use and maintenance agreement. It makes sense to me.

Mr. McConnell makes a motion on the Perry Subdivision, granting a 1st 90-Day Extension on final approval of a proposed 2-Lot subdivision, SBL # 58-2-11.22. Final Approval was granted on, 12/5/07. The 1st 90-Day Extension becomes effective on, 6/5/08.

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

4.) **Planning Board Minutes of 5/7/08 –** Planning Board Minutes of 5/7/08 for Planning Board's Approval. (On 5/27/08 @ 12:10 p.m. – I emailed minutes to PB).

Mr. McConnell makes a motion to Approve the 5/7/08 Planning Board minutes.

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

Correspondences:

1. Letter from Luke Charde, Esq., dated 5/23/08 addressed to the Planning Board – in regards to the Brian Singer's PB & ZBA applications.

   Mr. Astorino: That letter is in our packets.

Privilege Of The Floor For Agenda Items!!

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

Mr. Showalter makes a motion to adjourn the June 4, 2008 Planning Board meeting.

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