

TOWN OF WARWICK PLANNING BOARD

June 18, 2008

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, June 18, 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 Country Fairgrounds, LLC.**

Application for Final site plan approval, Final special use permit approval, and Final 2-Lot + 2 Municipal Lot subdivision approval for the construction and use of 82,750 square feet of commercial/retail facilities, situated on tax parcel S 51 B 1 L 40; property located on the northern side of NYS Route 94 approximately 1000 feet east of O.C. Route 21, in the DS/OI zones, of the Town of Warwick, County of Orange, State of New York. The Planning Board acting as Lead Agency under the State Environmental Quality Review Act (SEQRA), required the applicant to prepare a Draft Environmental Impact Statement and a SEQRA public hearing was held on 2/16/05 with the SEQRA public hearing being closed and the preliminary site plan, special use, and subdivision public hearings were closed at the 3/21/07 Planning Board meeting. A Final Environmental Impact Statement has been prepared and adopted by the Planning Board. The Planning Board adopted a SEQRA Findings Statement on 11/15/06 and Amended Findings Statement, adopted by the Planning Board on 2/6/08. Preliminary Site Plan Approval, Preliminary special use permit approval, and Preliminary 2-Lot subdivision approvals was granted on 5/2/07. Continued Public Hearing from the 5/21/08 Planning Board meeting.

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

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project. Status of approvals:
  - A. NYSDOT
    - a. 10/2/07 letter
  - B. NYSDEC
    - a. SPDES (issued 5/16/08)
  - C. OCHD
    - a. 6/13/08 letter

**SITE PLANS (LAST REVISED 6/6/08):**

**Sheet 4 – Subdivision Plan**

3. Show limits of wetlands in the Marginal Access Road Detail. Refer to Reference Note #5 on sheet 1.

4. Provide an irrevocable offer of Municipal Lots #3 & #4 to the Town Board. Provide a metes & bounds description and maps to the Town Board for their approval of a sanitary sewer district and a water transportation corporation.

**Sheet 5 – Layout & Signage Plan**

5. Provide an equality station of the Rt. 94 Improvements with Sta. 0+00 of the applicant's project.
6. Show suitable fire lanes with appropriate striping.

**Sheet 7 – Grading & Utility Plan**

7. Temporary construction trailers will be utilized. Per §164-43D, Board to discuss allowable period of time for trailer use and amount of bond. Provide notes on plans specifying same.

**BEFORE FINAL APPROVAL:**

8. The following Technical Review comment from the Orange County Health Department (6/13/08 letter) is incorporated as part of these comments:

“It is noted that the water transportation corporation must be in place and accepted by the municipality before the watermain extension plans will be approved. The formation of the water transportation operation is not expected to have any impact on the proposed infrastructure; therefore no further technical review comments are expected”

Applicant shall obtain the approval of the Town Board establishing a water transportation corporation covering the project site.
9. Applicant shall obtain the approval of the Town Board establishing a sewer district covering the project site. Applicant shall provide confirmation that the SPDES permit has been transferred to the sewer district.
10. Place the following note and recording information on the plan. Provide a copy of the declaration for the Planning Board Attorney’s review.

“Any proposed construction, grading, filling, excavating, clearing or other regulated activity within the State freshwater wetland or adjacent 100 feet requires a permit from the NYS Department of Environmental Conservation under Article 24 of the Environmental Conservation Law (Freshwater Wetlands Act) prior to the commencement of work.

A deed restriction consistent with this project’s SPDES permit has been recorded in the Orange County Clerk’s Office in Liber XXXX at Page XXX on X/XX/XXXX.”
11. Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes. Provide the declaration and the recording information on the plan for filing of a Reciprocal Easement Agreement which covers site access, parking, and all privately owned and maintained utilities.
12. Provide a notation on the plan that before construction of the car dealership and/or the pad site begins, an amended Site Plan and architectural drawings shall be submitted for Planning Board review and approval.
13. Provide an offer of dedication for the Marginal Access Road.
14. Provide offers of dedication for Municipal Lots #3 and #4.
15. Provide a blanket easement for a future connection between the wastewater treatment plant and a suitable stream. Provide a blanket access and maintenance easement for all on-site utilities to be owned by the Town.
16. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
17. Pay a Traffic Mitigation Fee to the Planning Board Attorney’s specification.
18. Pay performance bond, landscape maintenance bond (3-years) and construction inspection fees for stormwater management, erosion control, water and wastewater treatment, and site landscaping. Post bonds for construction trailer removal.
19. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 6/18/08:

Country Fairgrounds, LLC. – The CB restates all its prior comments on this project.

The following comment submitted by the ARB, dated 6/18/08:

Country Fairgrounds, LLC. – The ARB had no further comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: Under SEQR, the Planning Board acted as Lead Agency. The Planning Board had conducted a multi-year Full EIS procedure. At this point, every issue that we had asked the applicant to address has been addressed. The Planning Board has adopted a Findings Statement on this matter.

Comment #2: Applicant to discuss project. Status of approvals:

A. NYSDOT

- a. 10/2/07 letter

Mr. Astorino: You have taken care of that.

Dave Getz: There has been no change.

B. NYSDEC

- a. SPDES (issued 5/16/08)

Dave Getz: Right.

C. OCHD

- a. 6/13/08 letter

Dave Getz: Right. That was a new letter that came in since our last appearance.

Mr. Astorino: We have a Memo from the Town Board addressed to the Planning Board, dated 6/18/08 in regards to that matter.

Mr. Bollenbach: I will read that Memo for the record. The Memo is from Michael Sweeton, Supervisor, addressed to John Bollenbach Planning Board Attorney, dated 6/18/08: The Memo is stated as follow:

*Subject: Fairgrounds Petition for Water and Sewer*

*This is to let you and the Planning Board know that the Town has reached an agreement with the developers of the Fairgrounds project regarding the water and sewer systems. The basic terms of the agreement are as follows:*

- a. *Water system: The developer will be forming a transportation corporation to own the water system until such time as the Town consents to take ownership of the system. An agreement and deed of dedication will be worked out so that transfer can take place at any time the Town desires.*
- b. *Sewer system: The Town will take ownership of the sewer system from the outset. Therefore there will be no necessity for the developer to form a transportation corporation for the sewer system.*

*Final documentation for these various items referred to above are being worked out between the Town Attorney and the developer's attorney.*

*Therefore, there should be no reason from this point of view that the Planning Board could not grant conditional final approval to the plan.*

*Thank you for the diligence and the hard work of the Board, Planner, Engineer, and yourself as this matter progressed.*

**SITE PLANS (LAST REVISED 6/6/08):**

**Sheet 4 – Subdivision Plan**

Comment #3: Show limits of wetlands in the Marginal Access Road Detail. Refer to Reference Note #5 on sheet 1.

Dave Getz: Will do.

Comment #4: Provide an irrevocable offer of Municipal Lots #3 & #4 to the Town Board. Provide a metes & bounds description and maps to the Town Board for their approval of a sanitary sewer district and a water transportation corporation.

Adrian Goddard: Will do.

**Sheet 5 – Layout & Signage Plan**

Comment #5: Provide an equality station of the Rt. 94 Improvements with Sta. 0+00 of the applicant's project.

Dave Getz: Ok.

Comment #6: Show suitable fire lanes with appropriate striping.

Dave Getz: Yes.

**Sheet 7 – Grading & Utility Plan**

Comment #7: Temporary construction trailers will be utilized. Per §164-43D, Board to discuss allowable period of time for trailer use and amount of bond. Provide notes on plans specifying same.

Mr. Astorino: What was your plan on that? How many trailers? How long would they stay there?

Dave Getz: We are expecting at the maximum 3 to 4 trailer during the overall construction period.

Adrian Goddard: From start to finish, it would approximately be from 1.5 years to 2 years that the construction trailers would be there.

Mr. Bollenbach: You will also have the dealership. Is that going to progress now?

Adrian Goddard: We are still not clear about that.

Mr. Bollenbach: We could address that at such time when you come back for the amended site plan approval. Would you say that it would be a maximum 5 trailers for 2 years?

Adrian Goddard: It would probably be only 4 trailers.

Mr. Astorino: We could say that it would be a maximum of 4 trailers for 2 years.

Mr. Bollenbach: Let's insert that in comment #7. Let us give them the 5 trailers. As per §164-43D, 5 construction/office trailers allowable for a period of 2 years. We could discuss the bond issue at this time. Apparently with the trailers, there is a \$1,000 bond to guarantee the removal of those trailers.

Adrian Goddard: That will be fine.

Mr. Bollenbach: That will be incorporated in comment #18. It will read as follow; post bonds for construction trailer removal.

Mr. Astorino: Ok.

Mr. Singer: Could we add to that regarding that the trailers are on the lot where the supermarket is, not the car dealership lot?

Mr. Bollenbach: They are already located. Zen, is that correct?

Zen Wojcik: They are located on the plan. Maybe Carl wants to be more specific about it.

Mr. Bollenbach: But they are located on the plan.

Mr. Singer: Are 5 trailers located?

Zen Wojcik: He has 3 trailers shown on the plan in the construction lot for the grocery store. There is also a trailer shown on alternative staging plan in the area of the car dealership.

Mr. Astorino: Make a note that these trailers will be located on the supermarket site or the dealership site..

Mr. Bollenbach: Ok. I think that is covered. It states; provide notes on plans specifying same.

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

Mr. McConnell: Do we have anywhere on here regarding the screening that we discussed at length of the trailers?

Zen Wojcik: There is no comment in there.

Mr. McConnell: I would like to include a comment in here that they would be screened. Ted, would you be willing to look at what they would do or proposing and give your opinion on that?

Mr. Fink: Yes.

Mr. Bollenbach: We could add to that comment, provide screening to the Town Planner's specification.

Mr. McConnell: Yes.

Mr. Astorino: Are we looking at for some sort of a fence?

Mr. McConnell: Yes. If it was appropriate for some sort of planting that could remain after the construction was done, then planting would be appropriate. But, I was thinking more of a fence.

Mr. Astorino: Ok.

**BEFORE FINAL APPROVAL:**

Comment #8: The following Technical Review comment from the Orange County Health Department (6/13/08 letter) is incorporated as part of these comments:

“It is noted that the water transportation corporation must be in place and accepted by the municipality before the watermain extension plans will be approved. The formation of the water transportation operation is not expected to have any impact on the proposed infrastructure; therefore no further technical review comments are expected’

Applicant shall obtain the approval of the Town Board establishing a water transportation corporation covering the project site.

Mr. Astorino: We just discussed that.

Comment #9: Applicant shall obtain the approval of the Town Board establishing a sewer district covering the project site. Applicant shall provide confirmation that the SPDES permit has been transferred to the sewer district.

Dave Getz: Ok.

Adrian Goddard: Yes.

Comment #10: Place the following note and recording information on the plan. Provide a copy of the declaration for the Planning Board Attorney’s review.

“Any proposed construction, grading, filling, excavating, clearing or other regulated activity within the State freshwater wetland or adjacent 100 feet requires a permit from the NYS Department of Environmental Conservation under Article 24 of the Environmental Conservation Law (Freshwater Wetlands Act) prior to the commencement of work.

A deed restriction consistent with this project’s SPDES permit has been recorded in the Orange County Clerk’s Office in Liber XXXX at Page XXX on X/XX/XXXX.”

Adrian Goddard: Fine.

Comment #11: Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes. Provide the declaration and the recording information on the plan for filing of a Reciprocal Easement Agreement which covers site access, parking, and all privately owned and maintained utilities.

Dave Getz: Yes.

Comment #12: Provide a notation on the plan that before construction of the car dealership and/or the pad site begins, an amended Site Plan and architectural drawings shall be submitted for Planning Board review and approval.

Adrian Goddard: Yes.

Comment #13: Provide an offer of dedication for the Marginal Access Road.

Dave Getz: Ok.

Comment #14: Provide offers of dedication for Municipal Lots #3 and #4.

Adrian Goddard: Yes.

Comment #15: Provide a blanket easement for a future connection between the wastewater treatment plant and a suitable stream. Provide a blanket access and maintenance easement for all on-site utilities to be owned by the Town.

Adrian Goddard: Yes.

Comment #16: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.

Adrian Goddard: Yes.

Dave Getz: Ok.

Comment #17: Pay a Traffic Mitigation Fee to the Planning Board Attorney's specification.

Adrian Goddard: Yes.

Comment #18: Pay performance bond, landscape maintenance bond (3-years) and construction inspection fees for stormwater management, erosion control, water and wastewater treatment, and site landscaping. Post bonds for construction trailer removal.

Adrian Goddard: Ok.

Comment #19: Pay outstanding review fees.

Adrian Goddard: Ok.

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 Fairgrounds application, please rise and state your name for the record. Let the record show no public comment.

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

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

Mr. Showalter makes a motion on the Country Fairgrounds, LLC., application, granting Final site plan approval, Final special use permit approval, and Final 2-Lot + 2 Municipal Lot subdivision approval for the construction and use of 82,750 square feet of commercial/retail facilities, situated on tax parcel S 51 B 1 L 40; property located on the northern side of NYS Route 94 approximately 1000 feet east of O.C. Route 21, in the DS/OI zones, of the Town of Warwick, County of Orange, State of New York. The Planning Board acting as Lead Agency under the State Environmental Quality Review Act (SEQRA), required the applicant to prepare a Draft Environmental Impact Statement and a SEQRA public hearing was held on 2/16/05 with the SEQRA public hearing being closed and the preliminary site plan, special use, and subdivision public hearings were closed at the 3/21/07 Planning Board meeting. A Final Environmental Impact Statement has been prepared and adopted by the Planning Board. The Planning Board adopted a SEQRA Findings Statement on 11/15/06 and Amended Findings Statement, adopted by the Planning Board on 2/6/08. Preliminary site plan approval, Preliminary special use permit approval, and Preliminary 2-Lot subdivision approvals was granted on 5/2/07. Final Approval subject to the following conditions:

**(Sheet 4 – Subdivision Plan)**

1. Show limits of wetlands in the Marginal Access Road Detail. Refer to Reference Note #5 on sheet 1.
2. Provide an irrevocable offer of Municipal Lots #3 & #4 to the Town Board. Provide a metes & bounds description and maps to the Town Board for their approval of a sanitary sewer district and a water transportation corporation.

**(Sheet 5 – Layout & Signage Plan)**

3. Provide an equality station of the Rt. 94 Improvements with Sta. 0+00 of the applicant's project.
4. Show suitable fire lanes with appropriate striping.

**(Sheet 7 – Grading & Utility Plan)**

5. Temporary construction trailers will be utilized. Per §164-43D, 5 construction trailers for a period of 2-Years. Provide notes on plans specifying same. Provide screening to Town Planner's specifications.
6. The following Technical Review comment from the Orange County Health Department (6/13/08 letter) is incorporated as part of these comments:  
"It is noted that the water transportation corporation must be in place and accepted by the municipality before the watermain extension plans will be approved. The formation of the water transportation operation is not expected to have any impact on the proposed infrastructure; therefore no further technical review comments are expected"

Applicant shall obtain the approval of the Town Board establishing a water transportation corporation covering the project site.

7. Applicant shall obtain the approval of the Town Board establishing a sewer district covering the project site. Applicant shall provide confirmation that the SPDES permit has been transferred to the sewer district.
8. Place the following note and recording information on the plan. Provide a copy of the declaration for the Planning Board Attorney's review.  
"Any proposed construction, grading, filling, excavating, clearing or other regulated activity within the State freshwater wetland or adjacent 100 feet requires a permit from the NYS Department of Environmental Conservation under Article 24 of the Environmental Conservation Law (Freshwater Wetlands Act) prior to the commencement of work.

A deed restriction consistent with this project's SPDES permit has been recorded in the Orange County Clerk's Office in Liber XXXX at Page XXX on X/XX/XXXX."

9. Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes. Provide the declaration and the recording information on the plan for filing of a Reciprocal Easement Agreement which covers site access, parking, and all privately owned and maintained utilities.
10. Provide a notation on the plan that before construction of the car dealership and/or the pad site begins, an amended Site Plan and architectural drawings shall be submitted for Planning Board review and approval.
11. Provide an Offer of Dedication for the Marginal Access Road.
12. Provide Offers of Dedication for Municipal Lots #3 and #4.
13. Provide a blanket easement for a future connection between the wastewater treatment plant and a suitable stream. Provide a blanket access and maintenance easement for all on-site utilities to be owned by the Town.
14. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
15. Pay a Traffic Mitigation Fee to the Planning Board Attorney's specification.
16. Pay Performance Bond, Landscape Maintenance Bond (3-years) and Construction Inspection Fees for Stormwater Management, Erosion Control, Water and Wastewater Treatment, and Site Landscaping. Post Bonds for Construction Trailer Removal.
17. Pay Outstanding Review Fees.

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

Dave Get: Thank you.

Adrian Goddard: Thank you.

Frank Petrucci: Thank you.

**PUBLIC HEARING OF Susan Wheeler**

Application for Final Approval of a proposed 36-Lot cluster subdivision, entitled, "***Cedar Ridge***", situated on tax parcel S 7 B 2 L 51.2; parcel located along the south side of Wheeler Road approximately 1500 feet west of intersection with County Route 41, in the RU zone, the Town of Warwick, County of Orange, State of New York. The proposed subdivision was classified by the Town of Warwick Planning Board, as Lead Agency under the State Environmental Quality Review Act (SEQR), as a Type 1 Action. On 3/2/05, the Planning Board issued a SEQR Negative Declaration on the action. Preliminary Approval was subsequently granted on 3/2/05.

Representing the applicant: Kirk Rother, Engineer.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.

**YIELD PLAN – dated 5/8/03, last revised 7/29/03**

3. No further comments.

**CLUSTER PLAN – dated 3/31/03, last revised 4/29/08**

4. Revise the "Regelski Improvements Plan" on sheet 12. Note that, to reclaim the unused portion of Regelski Road cul-de-sac after extending the road and constructing the driveway, all the existing pavement shall be removed from the site, 2-inches (minimum) of topsoil shall be placed on the reclaimed area, and a perennial grass seed mix shall be placed according to the *NYS Standards and Specifications for Soil Erosion and Sediment Control*.
5. Lot #31 driveway exceeds 10%. Show a profile and revise General Note 21 and the note at the Residential Driveway Detail. Call-out paving of driveway at the lot on the Cluster Subdivision Plan.
6. Per revised §A168-10D, testing of the road subgrade and design of the pavement is required. Board to discuss allowing testing and design after final approval.
7. On sheet 18, revise Rip-Rap Outlet Sizing Chart. Where Min.  $d_{50}$  size is 3"-6", say  $d_{50}=6"$ . Where Min.  $d_{50}$  size is 6"-12", say  $d_{50}=12"$ .
8. Provide the declaration and the recording information on the plan for Homeowner's Association ownership and maintenance of stormwater management facilities.
9. Revise the detail for "Curb Inlet and Catch Basin". All inlets and basins shall be precast concrete, min. 4000psi; all exterior walls shall be painted with bitumen before installation. Shop drawings for all drainage structures, including catalog cuts for gratings, shall be submitted to the Town Engineer for approval prior to accepting delivery of the structures.

**BEFORE FINAL APPROVAL**

10. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Notes, Agricultural Protection Notes, Open Space Conservation, Homeowners Association, and No Further Subdivision Notes.
11. Applicant to provide signed and sealed copy of the SWPPP, and a copy of the final submitted NOI.
12. Provide easement and open space metes and bounds descriptions for review.
13. Provide irrevocable offer for road dedication for Sedge Road and Regelski Road Extension for the Town Board's approval.
14. Provide an offer of dedication for a 25 ft. wide strip along Wheeler Road.
15. 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.
16. Pay performance bond and construction inspection fee for Town roads, stormwater management facilities and erosion control.
17. Pay a 3-year term landscape bond and inspection fee for street trees, screening plantings, and hydric plantings at stormwater management facilities.
18. Pay outstanding review fees and parkland fees.

The following comment submitted by the Conservation Board, dated 6/18/08:

Cedar Ridge – The CB restates all its prior comments on this project.

The following comment submitted by the ARB, dated 6/18/08:

Cedar Ridge -

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board acted as Lead Agency for the SEQR environmental review of this application. Following the review of an extended Full EAF, the Planning Board had issued a Negative Declaration meaning that based upon the mitigation measures proposed and incorporated into the plan that the project would not have a significant impact on the environment. Therefore, the Planning Board subsequently issued preliminary approval following that SEQR determination.

Comment #2: Applicant to discuss project.

Kirk Rother: The application before the Board is for a proposed 36-lot cluster subdivision. It is situated on approximately 137 acres of land. It is located within the RU zoning district. The project fronts on Wheeler Road for several thousand feet on Wheeler Road, being a scenic road, there are no proposed dwellings. A portion of the property lies within the Ridgeline Overlay District. There are no proposed dwellings within the Ridgeline Overlay. That is slated as open space. Since the Planning Board granted preliminary approval, the only change that was done to the layout of the plan was done on lot #21. When reviewing this lot with the OCHD, they pointed out a more desirable location for the septic system. It was found in an alternative location which resulted in the reconfiguration of the lot.

**YIELD PLAN** – dated 5/8/03, last revised 7/29/03

Comment #3: No further comments.

**CLUSTER PLAN** – dated 3/31/03, last revised 4/29/08

Comment #4: Revise the "Regelski Improvements Plan" on sheet 12. Note that, to reclaim the unused portion of Regelski Road cul-de-sac after extending the road and constructing the driveway, all the existing pavement shall be removed from the site, 2-inches (minimum) of topsoil shall be placed on the reclaimed area, and a perennial grass seed mix shall be placed according to the *NYS Standards and Specifications for Soil Erosion and Sediment Control*.

Kirk Rother: Ok.

Comment #5: Lot #31 driveway exceeds 10%. Show a profile and revise General Note 21 and the note at the Residential Driveway Detail. Call-out paving of driveway at the lot on the Cluster Subdivision Plan.

Zen Wojcik: Mr. Chairman, that comment was put on there by error. We could strike comment #5.

Mr. Bollenbach: Comment #5 in its entirety could be taken off.

Mr. Astorino: We could strike comment #5.

Comment #6: Per revised §A168-10D, testing of the road subgrade and design of the pavement is required. Board to discuss allowing testing and design after final approval.

Kirk Rother: We have done the tests. The result were sent to Zen. I know that he has not had the opportunity to review them yet.

Mr. Astorino: Zen, do you have the information?

Zen Wojcik: Yes. I received that at the end of the day today. I will review them.

Mr. Astorino: Before the maps are signed, would we know?

Kirk Rother: Yes.

Mr. Astorino: I don't think that would be a problem. Do any Board members have any problems with that?

Comment #7: On sheet 18, revise Rip-Rap Outlet Sizing Chart. Where Min.  $d_{50}$  size is 3"-6", say  $d_{50}=6"$ . Where Min.  $d_{50}$  size is 6"-12", say  $d_{50}=12"$ .

Kirk Rother: No problem.

Mr. Bollenbach: I want to go back to comment #6. Strike the second portion of that sentence where it says Board to discuss. It will be a condition of the approval.

Mr. Astorino: Ok.

Comment #8: Provide the declaration and the recording information on the plan for Homeowner's Association ownership and maintenance of stormwater management facilities.

Kirk Rother: Ok.

Comment #9: Revise the detail for “Curb Inlet and Catch Basin”. All inlets and basins shall be precast concrete, min. 4000psi; all exterior walls shall be painted with bitumen before installation. Shop drawings for all drainage structures, including catalog cuts for gratings, shall be submitted to the Town Engineer for approval prior to accepting delivery of the structures.

Kirk Rother: No problem.

### **BEFORE FINAL APPROVAL**

Comment #10: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Notes, Agricultural Protection Notes, Open Space Conservation, Homeowners Association, and No Further Subdivision Notes.

Kirk Rother: Ok.

Comment #11: Applicant to provide signed and sealed copy of the SWPPP, and a copy of the final submitted NOI.

Kirk Rother: Will do.

Comment #12: Provide easement and open space metes and bounds descriptions for review.

Kirk Rother: Yes.

Comment #13: Provide irrevocable offer for road dedication for Sedge Road and Regelski Road Extension for the Town Board’s approval.

Kirk Rother: Ok.

Comment #14: Provide an offer of dedication for a 25 ft. wide strip along Wheeler Road.

Kirk Rother: Will do.

Comment #15: 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.

Kirk Rother: Ok.

Comment #16: Pay performance bond and construction inspection fee for Town roads, stormwater management facilities, and erosion control.

Kirk Rother: Will do.

Comment #17: Pay a 3-year term landscape bond and inspection fee for street trees, screening plantings, and hydric plantings at stormwater management facilities.

Kirk Rother: Yes.

Comment #18: Pay outstanding review fees and parkland fees.

Kirk Rother: Ok.

Mr. Astorino: Do any Board members have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Cedar Ridge application, please rise and state your name for the record.

Eugene Fay: I own the property where the proposed road is supposed to go through. I have a plot plan that I paid for. It is certified by the State of New York. It doesn't comply with the pins that they put in the ground. One of the iron pins that they put in was probably above my septic system. My property is shaped like a pie. There is an unusual turn to it. They came to a corner of my property and put an iron post into the ground, which original it was a set iron pin. I don't know what happened to it. That was supposed to be 8 feet from the end of the pavement into my property. It was supposed to be approximately 183 feet. That pin that they set in is 14 feet from the road, which would be on my property. It is not in the position that the previous pin was set.

Mr. Astorino: Is this at the end of Regelski Road?

Eugene Fay: Yes. Maybe, you could better explain it. Looking at my plot plan, it is this pin that is here.

Mr. Astorino: Zen, do you want to take a look at this?

Eugene Fay: If you measure the pin, it is 14 feet up from the curb. It is minus 7-1/2 feet from where it should have been. They placed it inside my property line. On the plan, from here, they didn't bother to do this figuring. They ran a straight line from this pin to this other pin. They put a stake in here which is depriving me 20 feet.

Zen Wojcik: It could just be a stake that they are measuring.

Eugene Fay: Then, don't measure on my property. It is due diligence. Make your own on the line where they belong.

Zen Wojcik: That is not my point.

Eugene Fay: They are not allowed on my property.

Mr. Astorino: That is your prerogative. That is true.

Eugene Fay: I did not give them permission. Put the stakes where they belong. Get a Certified Surveyor to go and survey the property. They should put them where they belong.

Mr. Astorino: Kirk, maybe you want to check into that with your Surveyor to make sure they are not on this gentleman's property.

Kirk Rother: Has that been done recently or quite a while ago?

Eugene Fay: I don't know when it was done. I was on my lawnmower. My lawnmower ran over a pipe and broke it. It was above my septic system.

Kirk Rother: Was that in the last month or two?

Eugene Fay: I don't know when you put it there.

Kirk Rother: Was it 3 years ago?

Eugene Fay: I have no idea.

Mr. Showalter: Was it just recently?

Mr. Bollenbach: It was just this year?

Eugene Fay: Yes. It might have been there. I didn't notice it. If those are the set pins that they are using as markers, I don't know. They should do the job and mark them where they belong. Why are they running all over my property?

Zen Wojcik: What I am looking at on the plan, we see an iron pin set right here.

Eugene Fay: Yes. That is set. That is another thing. From that iron pin, they are entitled to 50 feet through here. If they do it from where they set the pin, it is not 50 feet.

Zen Wojcik: What their plan says is that they set an iron pin right here. They set an iron pin at the end where it says, iron pin set. They set another pin.

Eugene Fay: No.

Zen Wojcik: Mr. Fay, that is what they are showing on the plan.

Eugene Fay: No. That was the original pin. They put this pin wherever they wanted. That was at 14 feet. It was supposed to be only 8 feet.

Zen Wojcik: The point that I wanted to make was that the only iron pins that are shown on his plan, there is only one more pin shown there that is different from what you have on your plan. I don't know exactly where the location is.

Eugene Fay: This is not an iron pin. It is a pipe.

Zen Wojcik: The survey refers it to an iron pin. It could be a wooden stake.

Eugene Fay: It is not a wooden stake. It is an iron pipe.

Zen Wojcik: That would be something that the Surveyors would need to clarify.

Mr. Astorino: Yes. Kirk, you will need to clarify that. Make sure it is not on this gentleman's property.

Connie Sardo: Sir, is that your only copy of your plot plan? Could we have a copy?

Eugene Fay: No. I am not giving you any. I had 4 copies. This is my last one.

Connie Sardo: Ok.

Mr. Astorino: Kirk, get in touch with the Surveyor. Try to work this out where it is supposed to be.

Eugene Fay: It is arbitrary and incomprehensible to me. I had a licensed Surveyor that had done this. This is stamped by the State. Do you have a licensed Surveyor?

Kirk Rother: Yes. John McGloin is the licensed Surveyor.

Eugene Fay: I can't see how he could set all of those pins like that.

Kirk Rother: The metes and bounds were similar.

Eugene Fay: This I paid for. This was certified.

Kirk Rother: I will ask John to check it.

Zen Wojcik: Mr. Fay, when Mr. Rother's Surveyor goes out there to check this property, I know you had said that you don't want anybody on your property. But, if someone from the Town comes along, would it be all right for the surveyor survey it.

Eugene Fay: Sure. I will be delighted.

Mr. Astorino: Mr. Fay, maybe you would want to give Zen your phone number.

Zen Wojcik: Kirk, please work through the engineer's office.

Mr. Astorino: This way we could get everybody on the same page.

Mr. Bollenbach: Mr. Fay, perhaps you could bring your map into Town Hall so that we could make a copy of it.

Eugene Fay: Yes.

Kirk Rother: Where are you getting 8 feet from? Are you measuring it from this map?

Eugene Fay: Yes. When they did it. I made a note of it that it was 8 feet. There is a chip in the curb of where the actual pin was. It was 7 feet. You took 7 feet into my property. There is another thing that is all screwed up. If you go to Orange County and look at their map, my neighbor only has 66 feet on the map. Now, he is claiming that he has 205 feet. It don't fit on the designs.

Kirk Rother: Which neighbor is that?

Eugene Fay: It is my adjoining neighbor.

Kirk Rother: Is it the neighbor next to you?

Eugene Fay: Yes.

Mr. Bollenbach: Kirk, which neighbor is that?

Kirk Rother: It doesn't say. It would be the neighbor to the east as it is moving away from our project down Regelski Drive.

Eugene Fay: Orange County map only shows 66 feet. Something is screwed up.

Zen Wojcik: Mr. Fay, we are only going to be looking at the end of Regelski Drive.

Mr. Astorino: We will have Kirk, Zen, and the Surveyor straighten this out. Mr. Fay, they will contact you.

Eugene Fay: Ok.

Mr. Bollenbach: Mr. Fay, give Zen your phone number.

Eugene Fay: Ok.

Mr. Astorino: Is there anyone else wishing to address the Cedar Ridge application?

Joe Ryan: I live on Union Corners Road. I adjoin this property. Why did they send letters to certain individuals about checking their wells and not other individuals?

Mr. Astorino: There is a protocol that we use. It is usually 1,000 feet.

Mr. Bollenbach: He is an adjoiner. He adjoins the property.

Joe Ryan: I am an adjoiner.

Mr. Astorino: Did we send to all adjoiners or only within 1,000 feet?

Kirk Rother: We didn't do any well monitoring for this subdivision.

Mr. Astorino: I didn't think so. We didn't do it on this project.

Joe Ryan: I believe they had done Mr. Matthews well and my other adjoining neighbors.

Kirk Rother: We did not monitor any wells for this subdivision.

Mr. Astorino: It could have been for the Wheeler Road Estates project. That is another project that we have over there.

Mr. Bollenbach: It could have been the Hampton Hill project.

Joe Ryan: I thought it was for this project.

Mr. Bollenbach: We did not send out letters. There was no joint well testing for this project. Water was not a concern here. The concern was for the Hampton Hill project. That project is located at the intersection of Jessup Road and Spanktown Road.

Joe Ryan: Why did Mrs. Matthews get one?

Mr. Bollenbach: That was for a different subdivision. That was for wells located within 1000 feet of the property line of the Hampton Hill subdivision. Perhaps your well was located beyond the 1000 feet where your adjoining neighbor was within the 1000 feet.

Joe Ryan: I will have to check on that.

Mr. Bollenbach: Take a look at that. There was the Hampton Hill subdivision where we required well testing and monitoring.

Joe Ryan: Where is the Hampton Hill subdivision?

Mr. Bollenbach: It located between Jessup Road and Spanktown Road. It is where the old barn is. The one that is falling down. That is the Hampton Hill subdivision.

Joe Ryan: That wouldn't be 1000 feet to Mrs. Matthews.

Mr. Bollenbach: It is the back of it. It backs up. The property continues up over the hill. It adjoins the back of Matthews former farm that is now owned by Connolly.

Joe Ryan: I was told that it was that property back behind us.

Mr. Bollenbach: No.

Mr. Astorino: Ted, there was no well monitoring on this property. Is that correct?

Mr. Fink: Yes.

Zen Wojcik: We were just looking at the vicinity map. It is certainly Hampton Hill.

Mr. Fink: It is close.

Mr. Astorino: Ok. It was Hampton Hill.

Joe Ryan: Ok. I will let my neighbors speak to you. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Cedar Ridge application?

Cindy and Jarrod Whidden come up before the Planning Board to speak about their concerns.

Cindy Whidden: We live to the right of Mr. Ryan. We live further away from Jessup Road and Spanktown Road. Our well is further away. We received a letter. Our well was monitored. That argument doesn't make any sense.

Mr. Bollenbach: It was for the Hampton Hill subdivision.

Cindy Whidden: But I live further away from there.

Mr. Astorino: Regarding that, we will address that at the Hampton Hill subdivision. If that is the case, you are further away, and Mr. Ryan did not receive a notice, we will check on that. Now, that you brought that to our attention, maybe something slipped through the cracks. They will be doing more well testing out there however; this subdivision did not require any well testing.

Cindy Whidden: So, you won't be testing for wells whatsoever.

Mr. Singer: For the Hampton Hill subdivision, we will do that.

Cindy Whidden: So, for this subdivision, there will be no well testing.

Mr. Astorino: There has been well testing through the County.

Mr. Bollenbach: Kirk, could you go over the protocol for the County well testing regarding the number of wells that had to be dug?

Kirk Rother: There were 4 wells done.

Mr. Bollenbach: There were 4 wells dug. Kirk, do you want to explain the procedure that had to do with the County Health?

Kirk Rother: Before the projects gets preliminary approval from the Planning Board, the Planning Board could ask that we do well testing on our site and monitor adjoining wells. At the time this received preliminary approval, there was not a documented history of well problems in the immediate area of our subdivision, not this other one. After preliminary approval, we then had to secure OCHD approval. They required that we drill and test one well for every 10 lots. So, 4 wells were done. We tested internally on our site to make sure there was an adequate yield. We did not monitor any adjoining wells when we did the tests.

Jarrold Whidden: What level were the wells at?

Kirk Rother: They were around 400 to 475.

Jarrold Whidden: How many wells did you do?

Kirk Rother: We had done 4 wells.

Mr. Astorino: As it was required by the County.

Kirk Rother: We have to do 1 well for every 10 lots.

Cindy Whidden: For Cedar Ridge subdivision, Mr. McGoldrick's property, our property, and Mr. Ryan's property, it all backs up to this.

Mr. Astorino: We understand that. The issue here is that the water that was tested by the County had met the requirements. We didn't feel there was a need. We tested the Hampton Hill project. The Planning Board felt there was a need to monitor wells. There was an issue out there that triggered this Board to make a decision for them to test wells. In this subdivision, we did not see that.

Cindy Whidden: Is there any paperwork that we could file that you do test wells? The property is much lower than our property. My well is at 184 feet. I don't want my well drained dry because of 36 homes going in.

Mr. Astorino: I totally understand that. But, this was addressed during preliminary approval.

Cindy Whidden: My home didn't exist then.

Mr. Astorino: Unfortunately, this was addressed then. We don't believe there was to be a water issue in that area. You received a letter on the Hampton Hill project. Did the letter come from Pietrzak & Pfau Engineering?

Cindy Whidden: I do not recall. The gentleman that came out to test our well put in a monitoring system in our well. I do have that paperwork.

Zen Wojcik: That was Sergio.

Cindy Whidden: Yes. It was Sergio.

Mr. Astorino: Ok. It is the Hampton Hill project.

Cindy Whidden: Let me get something clear. There is no paperwork or request that we could do to have those wells monitored.

Mr. Astorino: No. We have already been through the County test.

Cindy Whidden: Ok. Thank you.

Mr. Singer: Did you get the results of the test that was done?

Cindy Whidden: Yes. I have them at home. I could bring them to you.

Mr. McConnell: That was the test for the Hampton Hill subdivision.

Mr. Astorino: Save that for Hampton Hill subdivision.

Mr. Astorino: Is there anyone else in the audience wishing to address the Cedar Ridge application?

Fran Fay: I have a couple of questions regarding the developer and the development. The driveway that you will be cutting off, I don't understand how it is going to be. This is in regards to Regelski Drive. Are there going to be sidewalks?

Mr. Astorino: There are no sidewalks proposed.

Fran Fay: When you cut through the driveway, it is a hill. How do they propose to shorten it up? Will there be stone or rock?

Mr. Astorino: Zen, what will the grade be through there?

Zen Wojcik: It can't be a very steep grade. We don't allow that.

Fran Fay: That was why I wanted to know. What we are envisioning cutting through, it is steep.

Mr. Astorino: The Town does encourage this interconnection.

Zen Wojcik: I see what you are saying by being steep right now. We are showing a much gentler grade going through there. I think they will cut into the hillside and put some fill over there.

Fran Fay: Will there be fill and grass?

Zen Wojcik: Yes.

Fran Fay: What about erosion when it rains? Will it go onto the new road that you will be building?

Zen Wojcik: We have a standard. There will be no erosion coming down.

Fran Fay: What about the (12) 30 to 40-foot high pine trees that would be coming down?

Zen Wojcik: Those pine trees are in the right-of-way.

Fran Fay: I know.

Mr. Astorino: Those trees will be coming down.

Fran Fay: I would like to know how long they propose to be taking to do this? How long will this take? How are we supposed to get to our homes when that road will be cut across our driveway?

Mr. Astorino: You will always have access to your home during construction. They will not block it off where you can't get to your home. They can't do that.

Kirk Rother: That is an important point. I have no problem working with you and the Town to come up with some agreement that you would be able to get to your house.

Fran Fay: Yes. It will be a very steep driveway if you are cutting across it.

Mr. Astorino: Do you have a start time for this?

Kirk Rother: There is not even a developer for this.

Fran Fay: Great. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Cedar Ridge application?

Walter and Anne Ossentjuk come up before the Board to speak their concerns.

Anne Ossentjuk: We live on Union Corners Road. We have a concern with the first lot that goes behind our property. It is located right next to Mr. and Mrs. Fay. We are on the upper side on top of the hill. One of the first lots that is down below us, the corner of the house and their well is very close to our property line. Our septic and leachfield run far behind our house. There is not much distance between the leachfield and their well. Our neighbor next to us is even further back.

Mr. Astorino: Is it lot #1?

Zen Wojcik: I think it is lot #35.

Kirk Rother: It is lot #1.

Mr. Showalter: Zen, she borders lot #1.

Zen Wojcik: Ok.

Mr. Astorino: Zen, does the well meet the separation requirement?

Zen Wojcik: Yes. It only needs to be 100 feet away.

Anne Ossentjuk: Ok. The neighbor is even closer.

Mr. Astorino: Zen, you will need to check this.

Walter Ossentjuk: The Parks and Borrillo's houses are even closer yet. The hill drops off steep.

Anne Ossentjuk: We were concerned that if they start digging a well, we are on a hill. If that ledge starts collapsing, then every collapses.

Mr. Bollenbach: So, they are downhill. Then the well separation distance is required to be 200 feet.

Mr. Astorino: Zen, you will need to check that out.

Zen Wojcik: When we go out to Mr. Fay's property with the Surveyor, would you allow the Surveyor come out to your property?

Anne Ossentjuk: Yes.

Zen Wojcik: We just want to verify it.

Anne Ossentjuk: I have no problem with that.

Mr. Astorino: Do we have room on that site to move the well.

Zen Wojcik: Yes.

Kirk Rother: There is a line shown on the plan that says there is no anticipated well or septic beyond this point because it gets very steep. If it is not past that point, then we would meet the separation distance. If it is somehow past that point, I will be amazed. We would then have to relocate our well.

Mr. Astorino: We will have our Engineers verify that.

Anne Ossentjuk: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Cedar Ridge application?

Joe McGoldrick: I sit higher up than a lot of these people. When I do have a well problem because I am also at 180 feet, who would be responsible at that point once you put in 36-homes?

Mr. Astorino: Do you mean as far as guaranteeing your well?

Joe McGoldrick: Yes.

Mr. Astorino: There are no guarantees.

Joe McGoldrick: Ok. So, we build 36 homes, now do we have to build more schools? Do we have to have more Fire Departments? We don't have the services out in this rural area to support all of these subdivisions that are being provoked.

Mr. Astorino: All of the service providers were notified of this subdivision. The applicant sent letters to the Fire, Police, Schools, and all emergency personals. They did not give us a negative response back.

Joe McGoldrick: The last time I dialed 911 at my house because my wife had problems, it took them an hour to get there.

Mr. Astorino: I am telling you that everything was done. Letters were sent to the service providers. They did not send us a response stating that they would have a problem with this subdivision.

Joe McGoldrick: I am saying that the services are not proper now. That doesn't mean we could start building subdivisions when we know that there is already a problem.

Mr. McConnell: That is not something that this Board has any control over.

Joe McGoldrick: Nobody has control over this.

Mr. McConnell: Then, you need to take it up with the Supervisor or the Town Board. The Planning Board doesn't have any control over that. We have noted your concerns. But, we have no way to address your concerns.

Joe McGoldrick: Other than not proposing or allowing subdivisions that can't be supported.

Mr. Astorino: I don't think we could deny a subdivision for a shear fact. We have no basis to deny it. We sent letters to these emergency service providers.

Joe McGoldrick: Right.

Mr. Astorino: They believe that they could handle this.

Mr. McConnell: Mr. Chairman, I would like to ask a question.

Mr. Astorino: Ok.

Mr. McConnell: Mr. McGoldrick, you started off saying when I have a problem with my well, have you had problems with your well?

Joe McGoldrick: No. I have not.

Mr. McConnell: You have not. How long have you lived there?

Joe McGoldrick: I have been living there 4 years.

Mr. McConnell: Ok. You have had no problems with your well. Why are you assuming that you are going to have a problem? The County has a protocol for testing a subdivision like this to assure there is adequate water. Kirk, did the result come back just squeaking by or well within the range?

Kirk Rother: They were good results.

Mr. McConnell: We can't assume that you are going to have a problem. We also can't predict whether you will or won't have a problem. There is a protocol that has been set. OCHD stated that likely a problem would not occur if we allow these 36 houses to be built. I am not sure what else we ought to do.

Joe McGoldrick: I am just trying to figure out how many subdivisions that we could saturate.

Mr. McConnell: We are only talking about one subdivision.

Joe McGoldrick: Earlier, we were talking about another subdivision.

Mr. Astorino: The Town has a Comprehensive Plan and Zoning Code that was updated in 2002 that this Board is obligated to follow. It allows building in the Town of Warwick. For the shear fact to say that I don't want it anymore, we can't do that. We have a Zoning Code in the Town of Warwick that we follow. It allows for building in the Town of Warwick if you meet the requirements. They have to follow a procedure. We have to make sure they follow the procedure. We take input from the public, then we go from there. We can't just have a blanket that we don't want it anymore because it won't fly.

Joe McGoldrick: Could I see a map on what is being proposed?

Mr. Astorino: Yes.

Joe McGoldrick: There has nothing been posted about this that I have seen anywhere.

Mr. Astorino: This application has been before this Board longer than you have lived here.

Joe McGoldrick: Correct. But, I have gone on your website. I haven't seen any drawings on the website.

Mr. Astorino: There are no drawings on the website.

Joe McGoldrick: I have pulled down all of your minutes and meetings. I have read them all.

Connie Sardo: Have you come to the Town Hall to the Planning office to take a look at the maps? We have all of these maps on file.

Joe McGoldrick: No. Honestly, I didn't know that we were this far along until I received a letter about this 7 days ago.

Mr. Astorino: Again, when was the preliminary public hearing?

Joe McGoldrick: The preliminary public hearing was in year 2005.

Mr. Astorino: It was in year 2005. I don't know if you received that letter for that public hearing. You should have, if you lived there at that time. If you received this letter, you should have received that letter. This process has been going on quite awhile.

Mr. Singer: Mr. Chairman, at the time, we were aware that there were 2 or 3 other developments taking place in the same area at the same time. We did consider them in our analysis for water and traffic study.

Mr. Astorino: Right. That included the Round Hill Subdivision and Wheeler Road Estates subdivision.

Mr. Singer: We have done the studies. There was going to be no significant affect.

Mr. Astorino: I agree.

Kirk Rother shows the Cedar Ridge subdivision map to Joe McGoldrick. He explains the roads and the development on what will be happening in that subdivision. He also shows all the open space that will be in the subdivision. Mr. McGoldrick has a nice chunk of open space that borders his property.

Mr. Astorino: Is there anyone else wishing to address the Cedar Ridge application?

Chris Melody: I live on Regelski Drive. I was wondering when you reclaim Regelski Drive and replace some of it with topsoil, will that be concrete curbs?

Mr. Astorino: Is that what is there now?

Chris Melody: The curbs are in need of replacement.

Mr. Astorino: We are going to keep it the same.

Chris Melody: Regarding the HOA, do the existing houses get pushed into that?

Mr. Astorino: Do you mean pushed into the new road? I don't believe so.

Mr. Bollenbach: It will be a Town Road.

Kirk Rother: Our HOA is just to maintain the stormwater management facilities within this development.

Mr. Astorino: This is a Town Road. The Town will take care of the maintenance.

Chris Melody: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Cedar Ridge application? Let the record show no further public comment. Do any Board members or Professionals have any comments or concerns?

Mr. Bollenbach: If there is a dispute an alleged inaccuracy regarding the survey, I think it might be prudent to have that reviewed before we close the public hearing.

Mr. McConnell: I agree.

Mr. Showalter: Yes.

Kirk Rother: I have no objection to that.

**Mr. McConnell makes a motion to adjourn the Cedar Ridge public hearing to the July 16, 2008 Planning Board meeting.**

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

Mr. Astorino: To the residents that came out, this public hearing has been adjourned to the July 16, 2008 Planning Board meeting. This is your notice. There will be no more notices sent.

Kirk Rother: Thank you.

**PUBLIC HEARING OF Tom Hamling, VP Paterco, LLC.**

Application for site plan approval and special use permit for the construction and use of a new 3,260 square-foot addition to the rear of a commercial building (addition partially in the T/Warwick and V/Florida) to support current manufacturing process, entitled, **Zircar #2**, situated on tax parcels S 8 B 1 L 5 (Warwick) and S 101 B 1 L 6 (Florida); project located on the northern side of Round Hill Road 240± feet west of the intersection of Round Hill Road and Roe Street, in the OI zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Peter Hamling, Applicant.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Zircar #2 public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Applicant has received a variance from the Town of Warwick ZBA for exceeding the maximum lot coverage and for rear setback. Place full text of the ZBA variance on the plans.
4. Identify proposed use of addition and note how it complies with the Special Conditions.
5. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 6/18/08:

Zircar #2 - The CB has a concern regarding the safe handling, storage and disposal of industrial chemicals used by the applicant in order to prevent accidental discharges and contamination of groundwater.

The following comment submitted by the ARB, dated 6/18/08:

Zircar #2 – The ARB had no further comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board classified this as a Type 2 Action under SEQR. It is the expansion of an existing non-residential reuse. It involves less than 4,000 square feet of floor area. No SEQR review is necessary.

Comment #2: Applicant to discuss project.

Dave Getz: We have been before the Board before. Part of the property is located in the Village of Florida and part in the Town of Warwick. The application has been in two municipalities have been running in parallel. We are scheduled for a final public hearing

with the Village of Florida Planning Board next week. Variances have been received as needed for the project. There have been no significant changes to the plan for quite awhile.

Comment #3: Applicant has received a variance from the Town of Warwick ZBA for exceeding the maximum lot coverage and for rear setback. Place full text of the ZBA variance on the plans.

Dave Getz: Will do.

Comment #4: Identify proposed use of addition and note how it complies with the Special Conditions.

Dave Getz: Ok.

Peter Hamling: The proposed use is for warehouse and storage space. The business has grown. We need space to dry some of our materials. We are putting racks in there so that the materials dry. We are looking for storage of all materials.

Mr. Astorino: Zen, are you satisfied with that?

Mr. Bollenbach: There is no processing and manufacturing.

Peter Hamling: No.

Zen Wojcik: There is only one point. There is a comment from the CB, dated 6/18/08. Perhaps, Mr. Hamling could read that comment so we could have a response to that for the record.

Mr. McConnell: The CB comment, dated 6/18/08 is stated as follow: The CB has a concern regarding the safe handling, storage and disposal of industrial chemicals used by the applicant in order to prevent accidental discharges and contamination of groundwater.

Peter Hamling: We really don't use very many industrial chemicals.

Mr. Bollenbach: Anything that you have on site, is that stored in accordance with the EPA and DEC requirements?

Peter Hamling: Yes. Everything else is a water based material. We have some containers sitting outside that have like a starch material inside. Before they go out, they get rinsed with water and they are closed. There is nothing draining from them. We try to prevent any spills or anything coming out of the building. I don't see how we are going to contaminate the groundwater with anything that we do right now.

Mr. Showalter: You are checked occasionally by the DEC and OSHA.

Peter Hamling: Yes. We have had OSHA and DEC visits on a regular basis.

Mr. Showalter: Good. Have you passed those inspections?

Peter Hamling: Yes. We don't have any hazardous materials there.

Mr. Astorino: That takes care of that.

Comment #5: Pay outstanding review fees.

Dave Getz: Ok.

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 Zircar #2 application, please rise and state your name for the record. Let the record show no public comment.

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 Tom Hamling, VP Paterco, LLC., application, granting site plan approval and special use permit for the construction and use of a new 3,260 square-foot addition to the rear of a commercial building (addition partially in the T/Warwick and V/Florida) to support current manufacturing process, entitled, **Zircar #2**, situated on tax parcels S 8 B 1 L 5 (Warwick) and S 101 B 1 L 6 (Florida); project located on the northern side of Round Hill Road 240± feet west of the intersection of Round Hill Road and Roe Street, in the OI zone, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

1. Applicant has received a variance from the Town of Warwick ZBA for exceeding the maximum lot coverage and for rear setback. Place full text of the ZBA variance on the plans.
2. Pay Outstanding Review Fees.

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

Dave Getz: Thank you.

Peter Hamling: Thank you.

**Review of Submitted Maps:*****Ingimunder Kjarval***

Application for Sketch Plat Review of a proposed **28-Lot "Cluster"** subdivision; to be situated on tax parcel S 33 B 1 L 62, and located along the eastern side of Belcher Road, 5,700 feet east of NYS Route 17A, in the RU zone, of the Town of Warwick. Previously discussed at the 7/18/07 Planning Board meeting.

Representing the applicant: Mr. Lipman, Attorney. Dave Higgins from Lanc & Tully Engineering. Mr. Kjarval, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Applicant to discuss sewage disposal (community septic).
  - a. \$164-41.1M – community sanitary sewage disposal systems for cluster developments are encouraged.

**YIELD PLAN [1/21/03, LAST REV. 3/22/08\*]**

4. 1/21/03 Yield Plan shows 20 lots, using the Environmental Control Formula. Revised Yield Plan shows 28 lots, assuming a community septic system. Applicant to discuss.
5. It is assumed that Parcels "A", "B", and "C" are not buildable. These should be combined with adjacent lots for the purpose of calculating the yield of the parcel.
6. Soils in the location of the proposed community septic fields are identified as RSD, a Group XII soil categorized as unsuitable for septic systems by §137 Appendix A of the Town Code. Applicant to discuss.
7. Note 11 states that the community S.D.S. is designed for "27 three-bedroom homes". S.D.S. design calculations are for 28 homes. Revise note. Applicant to consult with OCHD regarding acceptable design flows.
8. Update Location Plan – lot configuration is different on current tax map.
9. Dimension setback lines on proposed lots.
10. Provide sight distance triangles at development road / town road intersections (ref. NYSDOT Highway Design Manual §5.9.5).

**CLUSTER PLAN [3/26/04, LAST REV. 5/22/08\*]**

11. Update 4-step process plans.
12. Provide details for proposed sanitary sewage disposal system.
  - a. Provide design calculations and details for proposed sanitary sewer pump station.
  - b. Size septic tank(s) and provide details.
  - c. Provide draft ownership and maintenance agreement for the Planning Board Attorney's review.
13. Applicant and Board to discuss waiver for excessive length cul-de-sac (1500' allowable < ±1700' proposed).
14. Indicate buildable area for proposed lots as per §137-21 of the subdivision regulations.
15. Indicate limit of disturbance and calculate area.
16. Building setback lines shall be dimensioned.
17. Indicate if private roads are proposed or if the roads will be offered for dedication to the Town.

18. Provide sight distance triangles at road intersections (ref. NYSDOT Highway Design Manual §5.9.5). Include a note that the area of the triangles shall be kept free from visual obstructions.
19. Provide road profiles, driveway profiles (10% or greater slope) and typical sections.
20. Provide SWPPP.
21. Revise the Ridgeline Overlay Notes per the 2007 Application Package.
22. Provide erosion control measures on plans consistent with the current “*NYS Standards & Specifications for Erosion and Sediment Control.*”

#### WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§137-19K	Street Design; dead-end streets – length of cul-de-sac exceeds six times the minimum lot width.

The following comment submitted by the Conservation Board, dated 6/18/08:

Ingimunder Kjarval - Regarding the roads, the CB recommends elimination of the triple cul-de-sacs which appear to result in excessive paving. The CB also questions the need for the loop road to serve Lots 1-9 and 24-27 (excessive paving). Regarding the septic systems, the CB questions whether there is adequate storage capacity in the event of a lengthy power failure. Also, is it permissible to show a community septic on a yield plan? Finally, there is no indication as to how the open space (Lot 28) will be protected.

The following comment submitted by the ARB, dated 6/18/08:

Ingimunder Kjarval - While the use of a common septic does allow for greater flexibility, this subdivision is a bit reminiscent of Levittown. The farthest portion (the cruciform section) does not permit privacy for the central lots, and deprives the owners of enjoyment of any open space. We would suggest a slightly more open layout with appropriate landscaping, or allowing a bit of natural space to buffer homes from one another. Homes should be varied and not cookie-cutter in layout.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning has already declared itself Lead Agency. We reviewed it with a full EAF. There are a number of comments in the review comments tonight that relate to SEQR that need to be addressed.

Comment #2: Applicant to discuss project.

Dave Higgins: This project has been around for some time with the Planning Board. It has gone through some evolution over that period of time. Part of the project involves a community septic system. It is located on the site. We have done some soil testing and demonstrated suitable soils for that type of system. We have revised the plan from the previous version. The yield plan has been modified based on the bulk requirements of the Town. We have omitted the use of the ECF being that the septic system is a community septic system. Each individual lot does not have a system within the bounds of each

property. Based on those calculations, we provided a yield plan that now shows 28 lots for this subdivision.

Mr. Bollenbach: That is one item that I want to touch on. That does not comply with the yield plan requirements. You would have to provide a yield plan showing that the septic and water could be placed on each individual lot. That comes up with your lot count.

Mr. Lipman: John, how do you get there?

Mr. Bollenbach: You have the choice to use the ECF or design it with the 3-acre layout under the yield plan showing septic, water, and designed application. Zen, do you want to chime in on that?

Zen Wojcik: It is §164-41.1D(3) in the Town Code. It states, "Yield Plan density shall be based upon an analysis conducted in accordance with the Town's Environmental Control Formula". Also in §164-41.1D(4)(a) in the Town Code, it states; "Fully engineered yield subdivision plans shall include percolation and deep tests for each lot, conceptual drainage designs, and shall be designed so that no waivers from any provision of the Town of Warwick Code shall be necessary". That was a question that we brought up at the workshop. John, wasn't at that workshop to respond.

Mr. Lipman: He has responded.

Mr. Astorino: How did you do the yield plan?

Mr. Lipman: Before we jump to how we had done it, I don't agree with that conclusion. If you read this paragraph in the Town Code where it is only one sentence, it states; the engineered yield plan shall include percolation and deep tests for each lot, not on each lot. Each lot in this case is serviced by a system that is not on the lot. It is for that lot without a central area where the soils are proper. There is nothing inconsistent with this yield and this language. How in the world could you do a cluster? Forget that for a moment. It is very clear that you could do a conventional plan with a central facility without doing deep tests and percolation tests on each lot. It is also clear that you are doing these tests for each lot. There is no reason to disqualify this piece of property. The sewage is going to be centrally handled. If you want to encourage a cluster design, there is no reason that this doesn't pass that test.

Mr. Astorino: You have not done an overall yield plan on the entire property.

Mr. Lipman: I don't know what you mean by that.

Mr. Bollenbach: It is a yield plan showing a 3-acre lot layout that shows the percs and deeps.

Mr. Astorino: It is the entire piece of property cut up into 3-acre lots to get your lot count.

Dave Higgins: We have done that.

Mr. Astorino: You did. I think I remember that back when we had done a site walk, we had a yield plan. Apparently, something has changed.

Dave Higgins: The question that was raised has to do with the presumption. I do agree with Alan that the presumptions are incorrect. We have a community system designed down here. We have done extensive soil testing in the way of both percolation test and deep soil test with a representative from the DEC witnessing and with Tectonic Engineering witnessing. The design here has been designed for a total of 28 lots. We also incorporated for the 100% expansion in accordance with the DEC requirements. The DEC has provided a letter indicating that system is conceptually approved. What we have done was shown a road layout through here and designed each of the lots in accordance with the bulk requirements of the Town, which are 3 acres in size, 200-foot depth, 200-foot width and also the side and front yard setbacks. We have forgone the use of the ECF because we have done the testing and demonstrated a fully engineered plan that provides sewer for each of the lots.

Mr. Bollenbach: That is inconsistent with the Planning Board's prior interpretation for the application of the subdivision.

Mr. Astorino: How many lots did you have before this plan?

Dave Higgins: I believe 20 lots.

Connie Sardo: It was for 22 lots.

Mr. Astorino: It was for 22 lots. That was because you had done a yield plan with the ECF. So, you didn't use the ECF and did not test the lots. You just found a spot that could handle this septic for this number of homes. Is that correct?

Dave Higgins: That is correct.

Mr. Lipman: We tested for each lot.

Mr. Astorino: How do we know that this property could handle 28 lots? On any of these clusters, we will take a piece of property and layout a certain number of lots. We would then do the ECF or do testing. That would give us the basis with no waivers for a yield plan.

Mr. Lipman: Exactly. Then, you would examine the plan.

Mr. Astorino: Then, we would move onto the cluster plan and do a site visit. Now, it seems that we have forgone one step of the process.

Dave Higgins: Let us just say that we had a piece of property that was adjacent to the Village of Warwick and it was 100 acres with no wetlands. Let's say the soils according to the ECF said you could not get septic on them, but otherwise it is perfectly a buildable piece of property. That is quite feasible.

Mr. Astorino: And, if you annexed it to the said Village?

Dave Higgins: Or, if they allowed connections as an outside user. What would be done for a subdivision if the ECF doesn't allow any lots at all on 100-acre piece of property and the Village says you could connect to the sewer?

Mr. Bollenbach: Unless, you could demonstrate that you could have adequate septic facilities on each of the yield lots, perhaps it is unbuildable.

Mr. Lipman: Where do you see that?

Mr. Astorino: Maybe, it is black dirt.

Mr. Bollenbach: Bingo. Certain areas are not buildable. We are trying to find out what the maximum yield or density is for the entire parcel.

Mr. McConnell: Mr. Chairman, if I follow the logic that Mr. Lipman is asking us to follow, I follow with what you said that this system has been designed for the 28 lots and you allowed for 100% expansion.

Dave Higgins: Yes.

Mr. McConnell: Does that mean you could actually connect 56 homes to that system? No. You would go into the 100% expansion.

Dave Higgins: The DEC requires 100% of an expansion area for the system for a potential failure.

Mr. McConnell: Could you have designed a system to handle 56 homes?

Dave Higgins: No. Then, it would require a design for 112 homes. You would still need to provide the 100% expansion to meet the DEC requirements.

Mr. McConnell: What I am trying to figure out here and what I am concerned about by following Mr. Lipman's logic and I am not prepared to say if I agree with it or not, what is the limit to the number of homes that you could put on this property? That is one of the reasons why we have a yield plan, etc... Could you have built an apartment house here?

Mr. Lipman: You would still have the same density limits in the ordinance. You have 3-acre lots if they are clustered, you would put the bonus for clustering. You could only get the area of the parcel divided by 3 acres less the road.

Mr. Astorino: The problem here is if you do the yield plan, they would have to be "a buildable lot". We don't know that at this point. What you are saying is that this theoretical lot over here that could or could not be built could now be built.

Mr. McConnell: Because, you wouldn't have to put a septic on that lot.

Mr. Astorino: But, that is not giving us the lot count. Do you understand what I am saying?

Mr. Lipman: I don't understand what you are saying.

Mr. Bollenbach: What would the yield be for the ECF? Zen, maybe you could take a look at that.

Mr. Lipman: It would be for 20 lots.

Zen Wojcik: It would be for 20 lots.

Mr. Astorino: That was the initial yield plan that you provided for us. It was 19 lots plus 1 affordable home.

Dave Higgins: Connie had said 22 lots.

Connie Sardo: That is what I had seen on the application and maps.

Zen Wojcik: I think it is 20 lots. The last time out we had a dispute because you showed 22 cluster lots. The yield plan was only for 20 lots.

Dave Higgins: Ok.

Mr. Astorino: When we do the yield plan, we do the primary, secondary areas, wetlands, and soils.

Mr. Lipman: We are not cutting out that review.

Mr. Astorino: We are just cutting out the soils.

Mr. Lipman: On these lots. We are not going to use these lots for sewers.

Mr. Astorino: Theoretically, I think that is where the hang up is here.

Mr. Lipman: Let us look at the language very carefully. It is one sentence. Fully engineered plans shall include percolation and deep tests for each lot. It doesn't say on each lot.

Mr. Bollenbach: That has been the Planning Board's interpretation and application for years.

Mr. Astorino: You got me on this. I don't agree with that one bit. I will refer that to our attorney.

Mr. Bollenbach: I will look into it.

Mr. Astorino: Every application that this Board has seen as a cluster has been done to the code.

Dave Higgins: Have you seen one with a central system?

Mr. Astorino: No. I have not. But to that end, I think we are circumventing a step here.

Mr. Lipman: I don't want to circumvent any step.

Mr. Astorino: My opinion is that we would have to look at this more closely. I think the Board would agree.

Mr. Lipman: If you had no applications with central systems proposed, how could there have been a policy established?

Mr. Astorino: I am not saying there was. I believe that the code reads that there is a certain protocol to take place. We have done that.

Mr. Lipman: I agree with you. When a subdivision is proposed to include individual septic systems, there is no other way in which it could be interpreted. Because, for each lot and on each lot in that case are the same thing.

Mr. McConnell: I disagree. Could you possibly have two septic on one lot?

Mr. Lipman: No. I don't think you could by other regulations.

Mr. McConnell: Ok.

Mr. Lipman: But, it suggests as a practical matter...

Mr. McConnell: It is ambiguous?

Mr. Lipman: We know the rule with respect to provisions in Zoning Ordinances that are debatable, ambiguous, or have more than one construction. In whose favor that construction must be resolved? This Zoning Law doesn't give rights. It takes them away. Therefore, that ambiguity has to be resolved in favor of the property owner.

Mr. Astorino: We will definitely look into it. With that being said, I don't know if it pays to go through these comments at this point.

Mr. McConnell: No.

Mr. Astorino: I think we should at least know where we are going and how many lots we would end up with. I think it would be a waste of time at this point.

Mr. Lipman: The spread between 20 or 22 and 28 lots is not that great.

Mr. Astorino: Before we even go through this, we should know at least where we are. At this point, we don't even know if we have 20, 22, or 28 lots or a community septic system or not. At this point, we should at least be on the same page as where we are going. Does the Board agree?

Mr. McConnell: I agree.

Mr. Kowal: I agree.

Mr. Showalter: I agree.

Mr. Astorino: Ok. Dave, if you have a copy of the comments, If I was you, I wouldn't do a thing until we know where we are going on this. I think you are wasting the applicant's money at this point.

Dave Higgins: Part of the reason that we made the submission without addressing some of these, having representing municipalities, I figured this comment would come up. I do understand why we are at where we are. I think we do have to resolve this issue. The cluster subdivision the design of it would all have to depend upon the number of lots.

Mr. Astorino: I agree.

Mr. McConnell: Explaining with what Mr. Lipman said, with all due respect, there is a 40% spread between 20 and 28 lots. That is significant in my book.

Mr. Lipman: I don't know how it affects these comments.

Mr. Astorino: I don't think it is prudent to even allow them at this point. You have a copy of them. I think the Board would like to know where we are at this point. John, we will discuss this at a work session.

Mr. Bollenbach: Or, at a work session.

Mr. Lipman: What do you mean at a work session?

Mr. Astorino: When we have room on an agenda.

Mr. Lipman: Room?

Mr. Astorino: When we have space on an agenda.

Mr. Lipman: How do we get on a work session agenda?

Connie Sardo: Send us a letter or a re-submittal. Then, we will put you on another agenda. A letter will suffice.

Mr. Lipman: Ok.

Dave Higgins: We will submit a letter tomorrow.

Connie Sardo: That would be good. It would go on under other considerations for the Board to discuss.

Mr. Astorino: Thank you. We will list comments 3 through 22 for the record.

Comment #3: Applicant to discuss sewage disposal (community septic).

- a. §164-41.1M – community sanitary sewage disposal systems for cluster developments are encouraged.

**YIELD PLAN [1/21/03, LAST REV. 3/22/08\*]**

Comment #4: 1/21/03 Yield Plan shows 20 lots, using the Environmental Control Formula. Revised Yield Plan shows 28 lots, assuming a community septic system. Applicant to discuss.

Comment #5: It is assumed that Parcels "A", "B", and "C" are not buildable. These should be combined with adjacent lots for the purpose of calculating the yield of the parcel.

Comment #6: Soils in the location of the proposed community septic fields are identified as RSD, a Group XII soil categorized as unsuitable for septic systems by §137 Appendix A of the Town Code. Applicant to discuss.

Comment #7: Note 11 states that the community S.D.S. is designed for “27 three-bedroom homes”. S.D.S. design calculations are for 28 homes. Revise note. Applicant to consult with OCHD regarding acceptable design flows.

Comment #8: Update Location Plan – lot configuration is different on current tax map.

Comment #9: Dimension setback lines on proposed lots.

Comment #10: Provide sight distance triangles at development road / town road intersections (ref. NYSDOT Highway Design Manual §5.9.5).

**CLUSTER PLAN [3/26/04, LAST REV. 5/22/08\*]**

Comment #11: Update 4-step process plans.

Comment #12: Provide details for proposed sanitary sewage disposal system.

- a. Provide design calculations and details for proposed sanitary sewer pump station.
- b. Size septic tank(s) and provide details.
- c. Provide draft ownership and maintenance agreement for the Planning Board Attorney’s review.

Comment #13: Applicant and Board to discuss waiver for excessive length cul-de-sac (1500’ allowable < ±1700’ proposed).

Comment #14: Indicate buildable area for proposed lots as per §137-21 of the subdivision regulations.

Comment #15: Indicate limit of disturbance and calculate area.

Comment #16: Building setback lines shall be dimensioned.

Comment #17: Indicate if private roads are proposed or if the roads will be offered for dedication to the Town.

Comment #18: Provide sight distance triangles at road intersections (ref. NYSDOT Highway Design Manual §5.9.5). Include a note that the area of the triangles shall be kept free from visual obstructions.

Comment #19: Provide road profiles, driveway profiles (10% or greater slope) and typical sections.

Comment #20: Provide SWPPP.

Comment #21: Revise the Ridgeline Overlay Notes per the 2007 Application Package.

Comment #22: Provide erosion control measures on plans consistent with the current “*NYS Standards & Specifications for Erosion and Sediment Control.*”

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-19K	Street Design; dead-end streets – length of cul-de-sac exceeds six times the minimum lot width.

Mr. Bollenbach: We have Conservation Board comments, dated 6/18/08 and ARB comments, dated 6/18/08.

Dave Higgins: Thank you.

***Millennium / National Park Service***

Application for Sketch Plat Review of a proposed 2-Lot (Minor) subdivision, situated on tax parcel S 47 B 1 L 51.23; parcel located on the western side of Lakes Road 800 feet south of Nelson Road, in the CO zone, of the Town of Warwick.

Representing the applicant: Kirk Rother, Engineer.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Note in bold on proposed Lot #2, "NOT FOR RESIDENTIAL USE WITHOUT PLANNING BOARD APPROVAL".
4. Reference to liber & page of driveway easement is different on the deed than it is on the plan.
5. General Use #93, Public Parks & Playgrounds, requires approval of a special use permit by the Planning Board. Submit a Site Plan/Special Use Approval application and fees.

**BEFORE FINAL APPROVAL:**

6. Complete metes & bounds survey of proposed lots.
7. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
8. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 6/18/08:

Millennium / National Park Service – The CB has no comment.

The following comment submitted by the ARB, dated 6/18/08:

Millennium / National Park Service – The ARB has no comments.

Comment #1: Board to discuss SEQR.

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

Mr. Kowal makes a motion for Lead Agency.

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

617.6

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

Name of Action: Millennium and National Park Service Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Millennium Pipeline Company for a ± 38.5 acre parcel of land located at Lakes Road and the Appalachian Trail, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 5/28/08 was submitted at the time of application, and

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

Whereas, the Planning Board has determined that the proposed project is not within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) do not apply, and

Whereas, after examining the EAF, the Planning Board has determined that there are no other involved and/or federal agencies on this matter.

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Comment #2: Applicant to discuss project.

Kirk Rother: The application is for a proposed 2-lot subdivision of lands owned by Mr. Galbicka and Ms. Fowler. The applicant is the Millennium Pipeline. Millennium has the need to cross the Appalachian Trail and widen the easement that they have currently with the National Park Service. In order to get the wider easement, as Mr. Humphrey indicated at the workshop, it would either require an act of Congress or an arrangement of a property transfer between the National Park Service and Millennium. The National Park Service had given Millennium a list of preferred properties. This piece of land was second on the list that was desirable. We had explored the first one. The landowner of that one was not receptive. What the project involves is the conveyance of approximately 6.7 acres of land of the western most portion of this 38-acre parcel to the National Park Service to be used as part of the Appalachian Trail. Lot #1 is the existing residence of Mr. Galbicka and Ms. Fowler. They want to continue using that as their personal residence.

Comment #3: Note in bold on proposed Lot #2, "NOT FOR RESIDENTIAL USE WITHOUT PLANNING BOARD APPROVAL".

Kirk Rother: Should it even say without Planning Board approval? The lot that we are creating is not a conforming lot for the residential bulk requirements.

Mr. McConnell: It should just say, not for residential use.

Mr. Bollenbach: That is it.

Mr. Astorino: We will strike without Planning Board approval.

Comment #4: Reference to liber & page of driveway easement is different on the deed than it is on the plan.

Kirk Rother: I will confirm that.

Comment #5: General Use #93, Public Parks & Playgrounds, requires approval of a special use permit by the Planning Board. Submit a Site Plan/Special Use Approval application and fees.

Kirk Rother: Right.

Mr. Bollenbach: I want to discuss that. This is the National Park Service. They preempt Local Law. In this particular case, it would be part of the Appalachian Trail.

Mr. McConnell: Which is not actually a park.

Mr. Bollenbach: No. It is part of the Park's National system. We could strike comment #5. No application for site plan/special use is required.

**BEFORE FINAL APPROVAL:**

Comment #6: Complete metes & bounds survey of proposed lots.

Kirk Rother: Ok.

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

Kirk Rother: Will do.

Comment #8: Pay outstanding review fees.

Kirk Rother: Ok.

Mr. Astorino: Do any Board members or Professionals have any comments or concerns? We need to set this for a public hearing. Is that correct?

Mr. Bollenbach: Correct

**Mr. McConnell makes a motion to set the Millennium/National Park Service application for a Final Public Hearing at the next available agenda.**

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

Kirk Rother: Thank you.

***Lands of Kirk Rother***

Application for Sketch Plat Review of a proposed 2-Lot Cluster (Major) Subdivision, situated on tax parcel S 42 B 1 L 110.4; parcel located on the western side of County Route 1 1885 feet north of Waterbury Road, in the RU zone, of the Town of Warwick. Previously discussed at the 5/21/08 Planning Board meeting.

Representing the Applicant: Kirk Rother, Engineer.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.

**YIELD PLAN (LAST REV. 5/28/08):**

3. Analyze the parcel using the Environmental Control Formula or provide witnessed perc and deep test results and a S.D.S. design for Yield Lot #2.

**CLUSTER PLAN (LAST REV. 5/28/08):**

4. Show the area of disturbance and note the area on the plan
5. Proposed Lot #1 is a flag lot. Flag lots are not permitted with frontage on a county highway (County Rt. 1A). Applicant to discuss.
6. Provide a septic system design and record results of Town Engineer witnessed percs & deeps.
7. Provide erosion control measures on plans consistent with the current "NYS Standards and Specifications for Erosion & Sediment Control" and include details.
8. Provide the declaration and the recording information on the plan for Common Driveway Use and Maintenance Agreement Notes and Open Space Conservation Notes.
9. Include a profile for the common driveway. The common portion of the driveway shall be paved – provide a detail and limits of the paving. However, if the Lot #2 driveway is 10% or greater in grade, the driveway must be paved in its entirety.
10. Add note stating: "No site preparation or construction, including utility connections, shall commence before a valid highway entrance permit has been secured from the Orange County Department of Public Works under Section 136 of the Highway Law."
11. Place a Lighting Note on the plans: "All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures."
12. Provide sight distance triangles at common driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Dimension sight triangles. Indicate that actual sight distance equals or exceeds minimum sight distance. Include a note that the area of the triangles shall be kept free from visual obstructions.
13. Reference survey and preparer or provide signed and sealed survey.

**BEFORE FINAL APPROVAL:**

14. 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.
15. Applicant to provide 9-1-1 addressing.

16. Pay parkland fees.

17. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 6/18/08:

Lands of Kirk Rother – The CB has no comment.

The following comment submitted by the ARB, dated 6/18/08:

Land of Kirk Rother – The ARB has no comment.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has already declared itself Lead Agency on this application. We are using a short EAF to assess impacts. There are a couple of comments in the review comments tonight that relate to SEQR.

Comment #2: Applicant to discuss project.

Kirk Rother: It is a proposed 2-lot cluster subdivision situated on approximately 6.6 acres of land, which abuts my parent's house. I am going to build a new house for myself.

**YIELD PLAN (LAST REV. 5/28/08):**

Comment #3: Analyze the parcel using the Environmental Control Formula or provide witnessed perc and deep test results and a S.D.S. design for Yield Lot #2.

Kirk Rother: Right. We have done joint soils with Tectonic for the cluster lot. I think I could reconfigure the yield lot so that the same septic area would work for both.

**CLUSTER PLAN (LAST REV. 5/28/08):**

Comment #4: Show the area of disturbance and note the area on the plan.

Kirk Rother: Ok.

Comment #5: Proposed Lot #1 is a flag lot. Flag lots are not permitted with frontage on a county highway (County Rt. 1A). Applicant to discuss.

Kirk Rother: Right. I know that we had spoken about this a little bit. I was hoping to get some input from the Planning Board Attorney. I know that he has been away.

Mr. Bollenbach: Yes. I haven't had a chance to take a look at it.

Mr. Astorino: Ok. Get in touch with John on that.

Kirk Rother: If I must, I will widen the flag to the point where it is no longer a flag lot.

Comment #6: Provide a septic system design and record results of Town Engineer witnessed percs & deeps.

Kirk Rother: Right. The soils have been witnessed. We will be submit the design.

Comment #7: Provide erosion control measures on plans consistent with the current "NYS Standards and Specifications for Erosion & Sediment Control" and include details.

Kirk Rother: Yes. Mr. Chairman, I am ok with the rest of the comments.

Mr. Astorino: Ok. We will list comments 8 through 17 for the record. Do any Board members or Professionals have any comments?

Comment #8: Provide the declaration and the recording information on the plan for Common Driveway Use and Maintenance Agreement Notes and Open Space Conservation Notes.

Comment #9: Include a profile for the common driveway. The common portion of the driveway shall be paved – provide a detail and limits of the paving. However, if the Lot #2 driveway is 10% or greater in grade, the driveway must be paved in its entirety.

Comment #10: Add note stating: "No site preparation or construction, including utility connections, shall commence before a valid highway entrance permit has been secured from the Orange County Department of Public Works under Section 136 of the Highway Law."

Comment #11: Place a Lighting Note on the plans: "All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures."

Comment #12: Provide sight distance triangles at common driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Dimension sight triangles. Indicate that actual sight distance equals or exceeds minimum sight distance. Include a note that the area of the triangles shall be kept free from visual obstructions.

Comment #13: Reference survey and preparer or provide signed and sealed survey.

#### **BEFORE FINAL APPROVAL:**

Comment #14: 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.

Comment #15: Applicant to provide 9-1-1 addressing.

Comment #16: Pay parkland fees.

Comment #17: Pay outstanding review fees.

Kirk Rother: Mr. Chairman, the main reason I made this submittal, I know that we will be gone for July weekend. I was wondering if the Board would set this for a public hearing.

**Mr. Showalter makes a motion to set the Lands of Kirk Rother application for a Preliminary Public Hearing at the next available agenda.**

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

**Other Considerations:**

1. Letter from John Ziobro, Esq., dated 5/27/08 addressed to Planning Board – in regards to Mary Tavolacci Site Plan. Planning Board to discuss project.

Mr. Astorino: I don't think we ever received a submittal. Did we receive a submittal?

Connie Sardo: No.

Mr. Astorino: What is there to discuss?

Mr. Bollenbach: The letter is for your reading pleasure.

Mr. Astorino: There is nothing to discuss until we get a submittal. The Letter from John Ziobro, Esq., addressed to the Planning Board is dated 5/27/08. The letter is for the Board's reading pleasure.

2. Memo from Bob Fink, ZBA Attorney, dated 6/3/08 addressed to John Bollenbach – in regards Brian Singer Subdivision. Planning Board to discuss project.

Mr. Astorino: We will discuss that application once the applicant has replenished their escrow account. Connie, is that correct?

Connie Sardo: Yes.

3. **Round Hill Subdivision** - Letter from Steven Spiegel, Esq., dated 6/12/08 addressed to Planning Board – in regards to Round Hill Subdivision requesting a 6-Month Extension on Re-Approval of Final Approval for a proposed 19-Lot + 1-Ag Lot cluster subdivision. SBL # 7-2-51.1. Re-Approval of Final Approval was granted on 10/17/07. *The extension is need because of the conditions of final approval requiring construction of roads and significant infrastructure, which real estate market and financial conditions do not permit at this time.* The 6-Month Extension becomes effective on, 4/17/08.

Mr. McConnell: John, do you want to run this down for me? Is this a matter of right or a discretionary thing? How many extensions could we give?

Mr. Bollenbach: There is no limit on the number of extensions. It is up to the Board's discretion to whether to grant an extension on final approval.

Mr. McConnell: When was the final approval?

Mr. Astorino: This is Re-Approval of Final Approval. The Re-Approval was granted on 10/17/07.

Mr. McConnell: I know that. When was the original final approval?

Mr. Astorino: It was a while ago.

Zen Wojcik: It was the year before that.

Connie Sardo: Yes.

Mr. Bollenbach: We just granted the re-approval 6-months ago. This would be the first extension. We recognize that the market is a little tight right now. I think it would be reasonable.

Mr. Astorino: Yes. It sounds like there are some money issues going on.

Mr. McConnell makes a motion on the Round Hill subdivision, granting a 6-Month Extension on Re-Approval of Final Approval for a proposed 19-Lot + 1-Ag Lot cluster subdivision, SBL # 7-2-51.1. Re-Approval of Final Approval was granted on 10/17/07. The 6-Month Extension becomes effective on, 4/17/08.

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

4. **Goldman-Rechtman Subdivision** – Letter from Lehman & Getz Engineering, dated 6/12/08 addressed to Planning Board – in regards to Goldman-Rechtman Subdivision requesting “**Re-Approval**” of Final Approval of a proposed 2-Lot subdivision, SBL # 19-1-24. Final Approval was granted on, 6/20/07. 1<sup>st</sup> 90-Day Extension was granted on, 12/5/07. 2<sup>nd</sup> 90-Day Extension was granted on, 3/19/08. *The applicant is finalizing the bond that is required for the road improvements on West Lake Road, and the process has taken longer than expected.* Re-Approval of Final Approval becomes effective on, 6/18/08, subject to the conditions of final approval granted on, 6/20/07.

Mr. McConnell: John, what is involved with this kind of a bond?

Mr. Bollenbach: They would have to go and get either a Letter of Credit or a bond from a bank.

Mr. McConnell: So, this is more than likely an economic reason here.

Mr. Bollenbach: Yes. It has become more difficult in getting bonds. If you deposit \$100,000.00 they would give you a bond for \$100,000.00. That is basically the size of it.

Mr. McConnell makes a motion on the Goldman-Rechtman subdivision, granting “**Re-Approval**” of Final Approval for a proposed 2-Lot subdivision, situated on tax parcel S 19 B 1 L 24; parcel located on the southern side of West Lake Road 2,600± feet east of Minturn Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on 6/20/07. (See attached)

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

5. **Planning Board Minutes of 5/21/08** – Planning Board minutes of 5/21/08 for Planning Board approval.

Mr. McConnell makes a motion to Approve the 5/21/08 Planning Board minutes.

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

**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. Bollenbach: Looking at the ARB comments, dated 6/18/08 under other matters, the ARB would like to review plans for the new Pine Island firehouse. The firehouse is beyond the Planning Board's jurisdiction. It is a separate taxing entity. If they would like, they could get in touch with the Chief of the Pine Island Fire Department for that matter. The other item is regarding plans for the pergola at the Morahan Beach. Again, that is also beyond the Planning Board's jurisdiction. If they would like, they could get in touch with the Town Board or whoever is designing it. They would appreciate their input.

**Mr. McConnell makes a motion to adjourn the June 18, 2008 Planning Board meeting.**

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