

TOWN OF WARWICK PLANNING BOARD

July 16, 2008

Members present: Acting Chairman, Carl Singer  
Russell Kowal, Dennis McConnell  
Roger Showalter  
Zen Wojcik, Tectonic Engineering  
John Bollenbach, Planning Board Attorney

The regular meeting of the Town of Warwick Planning Board was held Wednesday, July 16, 2008 at the Town Hall, 132 Kings Highway, Warwick, New York. Acting Chairman, Carl Singer called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

**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. Continued Public Hearing from the 6/18/08 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 – 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 Drive 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. As directed by the Planning Board, surveyor verified property corners along extended Regelski Drive in SBL 8-2-64 and actual location of well at SBL 7-2-58.1. Engineer to report.
6. Per revised §A168-10D, testing of the road subgrade and design of the pavement was required. Pavement Design Report accepts subbase design per §A168, adding suitable geotextile fabric. Revise typical road section detail.

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.
10. Place the following as "Model Home Notes" on the plan: "With the exception of building permits for two model homes, no building permits or certificates of occupancy shall be issued for the construction of residences on lots fronting on and with access from the proposed roads shown on this map until all road and drainage improvements are certified as complete (with the exception of street trees and asphalt wearing course) by the Town Engineer and accepted by the Town Board for dedication. Until such acceptance, the model homes are not to be sold. Notwithstanding the foregoing, no more than 5 acres of land disturbance shall be allowed at any one time."

### **BEFORE FINAL APPROVAL**

11. 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.
12. Applicant to provide signed and sealed copy of the SWPPP, and a copy of the final submitted NOI.
13. Provide easement and open space metes and bounds descriptions for review.
14. Provide irrevocable offer for road dedication for Sedge Road and Regelski Road Extension for the Town Board's approval.
15. Provide an offer of dedication for a 25 ft. wide strip along Wheeler Road.
16. 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.
17. Pay performance bond and construction inspection fee for Town roads, stormwater management facilities and erosion control.
18. Pay a 3-year term landscape bond and inspection fee for street trees, screening plantings, and hydric plantings at stormwater management facilities.
19. Pay outstanding review fees and parkland fees.

The following comment submitted by the Conservation Board, dated 7/16/08:

Cedar Ridge - CB has no further comments. Here are the CB comments from April: *The CB is concerned about the slopes and suitability of soils for many of the lots with respect to septic systems. Perc and deeps must be witnessed by Town Engineer.*

The following comment submitted by the ARB:

Cedar Ridge – None submitted.

Comment #1: Board to discuss SEQR.

Mr. McConnell: The following SEQR comment has been prepared by Mr. Ted Fink, dated 7/16/08: "A Negative Declaration was adopted for this project in March of 2005. No further action by the Planning Board is necessary."

Comment #2: Applicant to discuss project.

Kirk Rother: This project was last before the Board in June 2008. At that time, we held a public hearing to seek final approval. The public hearing was left open primarily to address the concerns brought by the public regarding the location of the R.O.W. to Regelski Drive in the proximity of the adjoining landowner Mr. Fay and also some concerns of residents on Union Corners Road in the proximity of their well and septic facilities in relation to our septic and well facilities on lot 1 and lot 2.

Mr. Singer: Why don't you tell us the results of those investigations?

Kirk Rother: I will defer that to Mr. Wojcik to tell you the results of those two items. Mr. Wojcik and the project surveyor met with those neighbors out there.

Zen Wojcik: This refers to comment #5. The Planning Board had requested that the applicant's surveyor verify the property corners along extended Regelski Drive in SBL # 8-2-64 which is the Fay's property. This morning Mr. McGloin and myself met with Mr. Fay. We spent an hour out there looking at his property and the maps that Mr. McGloin made and Mr. Fay's map. We found a corner point to Mr. Fay's satisfaction. We found a location where he had found a point that Mr. McGloin had set and had disturbed it. In re-measuring to that point, Mr. Fay is extremely satisfied. He agrees with what is shown on that plan is the correct thing. He told me that he wasn't sure if he would be here tonight. If he was to come here tonight, it would be to thank the Board for their caution in having this done. We also went to Mrs. Ossentjuk's house, which is SBL # 7-2-58.1. Mr. and Mrs. Ossentjuk were here at the last public hearing. They wanted some clarification about whether the well and septic that they have on their property and the well and septic on the proposed lot behind them, if that would be a conflict. Their well is in front of the house. Their septic is over on the side. There is a wooded area behind the house. Their house is over 200 feet away from where the proposed well and septic would be. We looked over the plans together. We talked about it. Mrs. Ossentjuk was satisfied. She said that everything was fine. Again, Thank you to the Board.

Mr. Singer: Was the surveying the same as what it is on the plan?

Zen Wojcik: Yes.

Mr. Singer: The rest of these comments we heard before. We will list comments 3 through 19 for the record.

**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 Drive 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*.

Comment #5: As directed by the Planning Board, surveyor verified property corners along extended Regelski Drive in SBL 8-2-64 and actual location of well at SBL 7-2-58.1. Engineer to report.

Comment #6: Per revised §A168-10D, testing of the road subgrade and design of the pavement was required. Pavement Design Report accepts subbase design per §A168, adding suitable geotextile fabric. Revise typical road section detail.

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  $d_{50}=12"$ .

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

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.

Comment #10: Place the following as "Model Home Notes" on the plan: "With the exception of building permits for two model homes, no building permits or certificates of occupancy shall be issued for the construction of residences on lots fronting on and with access from the proposed roads shown on this map until all road and drainage improvements are certified as complete (with the exception of street trees and asphalt wearing course) by the Town Engineer and accepted by the Town Board for dedication. Until such acceptance, the model homes are not to be sold. Notwithstanding the foregoing, no more than 5 acres of land disturbance shall be allowed at any one time."

### **BEFORE FINAL APPROVAL**

Comment #11: 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.

Comment #12: Applicant to provide signed and sealed copy of the SWPPP, and a copy of the final submitted NOI.

Comment #13: Provide easement and open space metes and bounds descriptions for review.

Comment #14: Provide irrevocable offer for road dedication for Sedge Road and Regelski Road Extension for the Town Board's approval.

Comment #15: Provide an offer of dedication for a 25 ft. wide strip along Wheeler Road.

Comment #16: 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 #17: Pay performance bond and construction inspection fee for Town roads, stormwater management facilities and erosion control.

Comment #18: Pay a 3-year term landscape bond and inspection fee for street trees, screening plantings, and hydric plantings at stormwater management facilities.

Comment #19: Pay outstanding review fees and parkland fees.

Zen Wojcik: Mr. Chairman, the only comment that was different is comment #10. We should discuss that comment.

Mr. Singer: Ok.

Zen Wojcik: Comment #10, refers to a model home note that we are proposing to be placed on the plan. Mr. Bollenbach and I worked on this note so that it could be more reflective of what actually happens. Please read comment #10 so that the applicant is aware of it.

Mr. Singer: Comment #10 reads as follow: Place the following as “Model Home Notes” on the plan: “With the exception of building permits for two model homes, no building permits or certificates of occupancy shall be issued for the construction of residences on lots fronting on and with access from the proposed roads shown on this map until all road and drainage improvements are certified as complete (with the exception of street trees and asphalt wearing course) by the Town Engineer and accepted by the Town Board for dedication. Until such acceptance, the model homes are not to be sold. Notwithstanding the foregoing, no more than 5 acres of land disturbance shall be allowed at any one time.” 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.

Paul Ruskiewicz: I am here in my capacity as Vice-President of the Orange County Vegetable Grower Association and as Chairman, of the Wallkill Valley Drainage Improvement Association. The farmers on the black dirt region have a number of concerns with this proposed subdivision mainly related to flooding. Over the last several years, we had some significant flooding events. One of the causes to those flooding events is increased development and more runoff. We are at the bottom of the hill. We get everybody’s water. With every new development that goes in, you have more roads, more impervious surfaces, and more runoff. There is a strong feeling that is a significant contribution to the flooding events that we have seen. This particular property as I understand it, runoff goes into the other creek that flows into Quaker Creek then into the black dirt. That is more of a direct path into the black dirt.

Mr. Singer: I would like to tell you how we handled that problem. Since this Board had come into effect with the new Code, our Engineering Department is very careful to make developers put retention ponds in. That is so no more water ever comes off the project after it is built then came before. It is equal to the amount that comes off before the development. You are not getting any more water runoff from the new developments. The runoff that you are getting is from developments that took place 8 years ago or more. This development will not have any more runoff.

Paul Ruskiewicz: Ok. As long as it is properly engineered.

Mr. Bollenbach: That is what we are reviewing. They have their engineering verified by the Town’s Engineer so that it is properly installed according the SWPPP. There are adequate safeguards in place already. There is no disturbance within the wetland or the stream corridor areas. The water is pre-treated. It is not just the quality. It is also the quantity. Quantity, there is no increased runoff. It is retained. It is released slowly. Also, the quality is improved by the different mechanisms such as the grass swales. This being a cluster subdivision, the areas that are environmentally sensitive are avoided. I don’t understand your concern.

Paul Ruskiewicz: We just wanted to be sure that these measures are in place.

Mr. Bollenbach: Yes. They are being taken care of.

Paul Ruszkiewicz: Right. I understand that there are new technologies and regulations for these types of things. I know that in the past with these types of projects, promises had been made that there would be no more runoff. That turned out not to be the case. As long these provisions are taken care of, then we shouldn't have a problem.

Mr. Singer: You could feel comfortable that we are taking care of it now.

Paul Ruszkiewicz: Yes.

Mr. Bollenbach: There is one additional comment that the Board hasn't been aware of. It is the last line on comment #10. In comment #10, it states that no more than 5 acres of land disturbance shall be allowed at any one time. There are proper soil and sediment erosion control measures that are in place. Then, it has to be reseeded and stabilized before additional disturbance could take place. We are specifically trying to address your concerns.

Paul Ruszkiewicz: Ok.

Mr. Bollenbach: If there is any sediment, it will be caught in the forebays before the retention/detention ponds. If there is any sediment, it will settle out there. Then, that could be cleaned out and removed. The water that is going in is clean water and the quantity of the water is regulated.

Mr. McConnell: I just want to let you know that we share your concerns. It might sound like we are arguing with you. We are not arguing with you. We are trying to let you know that we share your concerns. We are confident that the Code and the technical requirements are sufficient to prevent the problems that you are also trying to prevent. As John had said, the developer has a Licensed Engineer who would develop, design, and submit to our Engineer for approval. Don't hesitate to raise these concerns. We are aware of them. We share them.

Paul Ruszkiewicz: Ok.

Mr. Bollenbach: Zen, could you talk about the monitoring process and the NOI?

Zen Wojcik: The NYSDEC has a policy for stormwater management for this project and other projects like it. A SWPPP (Stormwater Pollution Prevention Plan) has been developed. The Town will be looking at that over the course of time for this project. There is an NOI (Notice of Intent) that goes out to the DEC that says we will be building this in a particular way. Each of the property owners have to sign off on the NOI. That was a recent change in the law. It use to be just the developer. Now, it is for every property owner. Someone can't come on and decide that they would want to do something different that may be detrimental to what the overall plan is for the site. At the end of the project, there is an NOT (Notice of Termination). At that time, the property owner and the developer say that they have complied with all the SWPPP. During the course of this construction, the Town Engineer's office has to do inspections. In this particular case, we have proposed Town roads. Wherever we have Town roads, we want to have an asbuilt plan for the roads. The roads are part of the drainage system on the site. We extend that to say give us an asbuilt plan for all of these stormwater management facilities that you have out there. That way we are assured that things are constructed in the amount that they have in their design. We have had some obstinate contractors that we have gone back and forth with until we finally got them to do what they were supposed to do. The message is getting out. We think that in the future we

are hopeful that things will work out well. That doesn't mean that there isn't any room for improvement. The State has a regular schedule of review of these rules. They have just revised their rules. They are starting to review them for the next time out. It is an ongoing process. There are many other agencies that are involved in this to try to protect not just this watershed, but for other watersheds in the State. We have a unique circumstance where the water in this area goes into a very valuable resource of the black dirt area. The Board is aware of that. The Board is trying very hard to protect this.

Paul Ruszkiewicz: Ok. Thank you.

Mr. Singer: Is there anyone else wishing to address the Cedar Ridge application? Let the record show no further public comment.

Connie Sardo: Mr. Chairman, we have a comment from the Conservation Board, dated 7/16/08 that refers to slopes and suitability of soils for the septic systems and the percs and deeps.

Zen Wojcik: That refers to a comment that we had earlier on. In the development of this project that has been before this Board now for 6 years, the County had a chance to take a look at it. Mr. Rother had to change some of the lots. There was a little confusion on whether everything had been reviewed. We have in the last 2 months looked at all the ones that we thought were in question. The Town Engineer has looked at all percs and deeps.

Mr. Singer: Thank you.

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

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

Mr. Kowal makes a motion on the Susan Wheeler application, granting 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. Subject to the following conditions:

1. Revise the "Regelski Improvements Plan" on sheet 12. Note that, to reclaim the unused portion of Regelski Drive 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*.
2. As directed by the Planning Board, surveyor verified property corners along extended Regelski Drive in SBL 8-2-64 and actual location of well at SBL 7-2-58.1. Engineer to report.
3. Per revised §A168-10D, testing of the road subgrade and design of the pavement was required. Pavement Design Report accepts subbase design per §A168, adding suitable geotextile fabric. Revise typical road section detail.

4. 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  $d_{50}=12"$ .
5. Provide the declaration and the recording information on the plan for Homeowner's Association ownership and maintenance of stormwater management facilities.
6. 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.
7. Place the following as "Model Home Notes" on the plan: "With the exception of building permits for two model homes, no building permits or certificates of occupancy shall be issued for the construction of residences on lots fronting on and with access from the proposed roads shown on this map until all road and drainage improvements are certified as complete (with the exception of street trees and asphalt wearing course) by the Town Engineer and accepted by the Town Board for dedication. Until such acceptance, the model homes are not to be sold. Notwithstanding the foregoing, no more than 5 acres of land disturbance shall be allowed at any one time."
8. 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.
9. Applicant to provide signed and sealed copy of the SWPPP, and a copy of the final submitted NOI.
10. Provide easement and open space metes and bounds descriptions for review.
11. Provide irrevocable offer for road dedication for Sedge Road and Regelski Road Extension for the Town Board's approval.
12. Provide an offer of dedication for a 25 ft. wide strip along Wheeler Road.
13. 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.
14. Pay Performance Bond and Construction Inspection fee for Town roads, stormwater management facilities and erosion control.
15. Pay a 3-Year Term Landscape Bond and Inspection Fee for street trees, screening plantings, and hydric plantings at stormwater management facilities.
16. Pay Outstanding Review Fees and Parkland Fees.

Seconded by Mr. McConnell. Motion carried; 4-Ayes.

Kirk Rother: Thank you.

**PUBLIC HEARING OF Thomas Sobiech #2**

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

Representing the applicant: Roger Lupino, Engineer. Thomas Sobiech, Applicant.

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

Mr. Singer: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Board to discuss Engineer's site visit report.
4. More than 0.25 acres of trees have been removed from the parcel without a building permit, and for non-agricultural purposes. Approximately 5000 sf of black dirt have been filled or converted. A violation has been issued by the Building Inspector for activities inconsistent with Chapter 150 of the Town Code.
  - a. Per Town Planner's specification, mitigate tree removal with plantings at Brozdowski Lane and along County Route 1.
  - b. Restore filled black dirt to the Town Engineer's specifications.
5. A non-residential structure within an Agricultural District has been converted to non-agricultural use without the prior approval of the Planning Board, in violation of Chapter 164 of the Town Code.
  - a. Applicant has applied for a Special Use Permit for adaptive reuse of the agricultural structure on SBL 3-1-35.2 and the yard on SBL 3-1-35.2 & 35.3. Notes outlining the potential non-agricultural uses for the parcel are listed on the plan. Insert the following: "The use of the structures and yard area for maintenance, repair, and storage of machinery, equipment and fuel for this application has been approved by the Planning Board." Board to review list of uses.
  - b. The operator of the construction yard is storing and dispensing diesel fuel on the site. "Fuel & Hazardous Material Storage Notes" have been provided on the plan. Board and applicant to discuss.
  - c. Lot 35.1 contains a mobile home previously approved (10/19/05) by the Planning Board as a residence for the applicant's farm manager. Supply the Building Inspector with the yearly permit renewal and employment documentation per §164-46J(20) and (141).
  - d. Lot 35.3 contains existing dormitory accommodations for housing agricultural workers in three buildings without benefit of a special use permit from the Planning Board. Revise the application to include the dormitories and provide suitable details. Board and applicant to discuss.
  - e. Provide the following note on the plans: "As approved by the Planning Board, housing for agricultural workers is provided on SBL 3-1-35.1 and SBL 3-1-35.3,

- pursuant to the following special conditions:” Insert the full text of §164-46J (20), (21), and (141).
6. Site lighting is provided in a manner inconsistent with Chapter 164 of the Town Code.
    - a. Fixtures used on the site are a drop-bulb type fixture and floodlights. Shielding is required per §164-43.4E(3). Provide a detail showing how the fixtures will be shielded.
  7. The operator of the yard is utilizing construction trailers as offices and box trailers for storage. Provide a letter from the tenant stating when they propose to demobilize from the site and, if demobilization will be done in stages, when and how many trailers will be removed from the site. Provide a \$1000 bond per trailer for removal of the trailers.
  8. Provide a 3-year landscape maintenance bond for mitigation plantings.
  9. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 7/16/08:

Thomas Sobiech #2 – CB has no comments.

The following comment submitted by the ARB:

Thomas Sobiech: #2: None submitted.

Comment #1: Board to discuss SEQR.

Mr. McConnell: The following comment has been prepared by Mr. Ted Fink, dated 7/16/08: “SEQR issues associated with this application include the potential for impacts on agriculture due to the loss of black dirt soils and impacts on aesthetics due to the loss of screening to adjacent residential uses from the current parking/staging areas and the eventual adaptive reuse of the on-site structures. A series of photographs were taken on 6/9/08 that also included an aerial photograph of the site taken prior to clearing activities. Based upon the photographs, it appears as if a considerably greater area has been cleared than is indicated on the proposed Site Plan drawings.

My understanding is that Zen has been coordinating with the New York State Department of Agriculture and Markets for appropriate mitigation/restoration of the black dirt areas that have been filled.

My recommendations for landscape plantings are based upon the requirements of the Town Zoning Law and Design Guidelines. They are as follows: a) At least 15 % of the area between the inside perimeter of the parking areas shall be landscaped and maintained with trees and shrubs at a rate of 1 tree and 10 shrubs for each 8 parking spaces; b) a ten foot wide landscape strip is to be planted with shade trees and shrubs around the perimeter of the lot; c) at least 25% of the trees are to be evergreens such as spruce; d) along Brozdowski Lane, an evergreen hedge with a height no less than six (6) feet at the time of planting is to be installed and maintained; and e) a landscape maintenance bond is to be provided to ensure survivability of at least three years.

I have prepared a draft Negative Declaration for the Board’s consideration assuming that appropriate mitigation/restoration is available for the black dirt areas.”

Comment #2: Applicant to discuss project.

Comment #3: Board to discuss Engineer's site visit report.

Mr. Singer: Our Engineer had done a site visit recently at the Sobiech #2 site. Zen, could you tell us what you had seen at the site visit?

Zen Wojcik: The site visit was prompted by a letter that the Board had received from Ms. Arlene Jacoby, dated 7/4/08 who is an adjacent property owner. She alleged that certain practices and activities were occurring on her property. She has one property that is to the west of the parcel that is in question. With that parcel, there was some confusion over there. That parcel wraps around a building that is on this site. Nothing happened on that property. That was fine. Ms. Jacoby has two pieces of property that are across Brozdowski Lane from the site. She included in her letter photographs of heavy equipment, excavating a sand bank, and putting dirt into dump trucks with those trucks leaving the site. We have no idea where that could have gone. Behind the building that is on Jacoby's property across from Brozdowski Lane, there is a sand bank. It looks like there has been some activity that has occurred there at some time past. It was not that long ago where plantings had already taken root on the slope. You could still see tire tracks and tread tracks in the land in front of it. There is water and ponding over there. It hasn't been reseeded. Something has happened over there.

Mr. Singer: Mr. Sobiech, how do you react to this?

Thomas Sobiech: That has been a gravel bank for 25 to 30 years since my father was there. That is what she is talking about.

Mr. Singer: The recent tracks there indicating that it was moved recently.

Zen Wojcik: Ms. Jacoby also claims that concrete slabs were removed from the site, but that could not be ascertained at this time. I could not tell what kind of slabs were there before. There are concrete gravity blocks all over the parcel. These blocks are ubiquitous on construction sites. We couldn't prove one thing one way or the other. Ms. Jacoby also gave us photos showing trash being buried on some field area. I could not determine where that was. There are several properties out there other than the ones in the main vicinity of Brozdowski Lane and Mission Land Road. Mr. Sobiech and Ms. Jacoby both own other properties in the application's vicinity. Whether there was some activity at any of these sites burying anything, there is no way I could tell. Everything has stuff growing on it right now. It seems to be growing very well. I don't know anything about that. I also went to the site. I checked into two things that have been before the Board for its consideration. One of the items is in regards to lighting. The day after the workshop, I received a call from Millennium Pipeline that the lights had been shielded. I looked at the lights. There are shields of a sorts that had been attached to the floodlights. They are not adequate according to our code. Our code states that you can only have light coming off the bottom of the light and the light luminaires. There is one pendant-type light at the site. I have provided the applicant with a catalogue cut from the internet for a shield that the manufacturer recommends. The pendant light is still unshielded. It is located right over the fueling area. I imagine that it is not in use right now. Once it gets later in the season and darker earlier, it will probably be used. It is not shielded. It needs to be shielded. The last item is in regards to the black dirt. I contacted Matthew Brower from NYS Department of Agriculture and Markets. I gave him a rundown

on what has been going on with this property. I told him that the plans show that approximately 5000 sf of black dirt has been filled and converted. There are documents that Millennium had prepared called the "Black Dirt Plan" for working in the black dirt. I believe that they are following this plan right now as they are building the pipeline across the black dirt. Under this plan, the black dirt is conserved and then placed back in. I don't see a stockpile of black dirt around anywhere. I don't know if anything was ever removed from this site before it was filled. There is also a plan that Ag & Markets have for restoration of farmland. Again, there would be stockpiles of material. There are no stockpiles of anything. Mr. Brower agreed that since we don't have a lot of information about what happened, the best we could say is that at some time when the Board wants it, we could just ask for the portion that has been filled for the working surface to be removed, which is the Item 4 and the geotextile fabric. Then, we could see what is there. If it is black dirt that has been compressed, you could till it to make it usable again as black dirt. However, if other fill material is mixed in with the black dirt, Mr. Brower suggests that it may not be worth restoring the filled area.

Mr. Singer: At the time they remove the gravel and whatever they have underneath the gravel, could Tectonic be there to see what else could be put there?

Zen Wojcik: Yes.

Mr. Singer: Mr. Sobiech, do you have any comments?

Thomas Sobiech: The light hasn't been there for 25 years. There is no power to that light. I don't use that light.

Mr. Bollenbach: Then remove it.

Thomas Sobiech: Not a problem.

Mr. Singer: We have talked about that light many times. You still have a problem with it.

Thomas Sobiech: It is not on. There is no power to it.

Mr. Singer: Now, you know that you have to remove it.

Thomas Sobiech: That is not a problem.

Mr. Singer: Before we go onto the comments, are you still a farmer? Do you still have a farming operation?

Thomas Sobiech: Yes. I do have onions.

Comment #4: More than 0.25 acres of trees have been removed from the parcel without a building permit, and for non-agricultural purposes. Approximately 5000 sf of black dirt have been filled or converted. A violation has been issued by the Building Inspector for activities inconsistent with Chapter 150 of the Town Code.

- a. Per Town Planner's specification, mitigate tree removal with plantings at Brozdowski Lane and along County Route 1.
- b. Restore filled black dirt to the Town Engineer's specifications.

Thomas Sobiech: Yes.

Comment #5: A non-residential structure within an Agricultural District has been converted to non-agricultural use without the prior approval of the Planning Board, in violation of Chapter 164 of the Town Code.

- a. Applicant has applied for a Special Use Permit for adaptive reuse of the agricultural structure on SBL 3-1-35.2 and the yard on SBL 3-1-35.2 & 35.3. Notes outlining the potential non-agricultural uses for the parcel are listed on the plan. Insert the following: "The use of the structures and yard area for maintenance, repair, and storage of machinery, equipment, and fuel for this application has been approved by the Planning Board." Board to review list of uses.
- b. The operator of the construction yard is storing and dispensing diesel fuel on the site. "Fuel & Hazardous Material Storage Notes" have been provided on the plan. Board and applicant to discuss.

Mr. Singer: Also on the plan, it says that Millennium had made provisions for spills. When our Engineer was out there recently, he was not convinced that adequate precautions have been taken. Do we have any ideas on how to improve it?

Thomas Sobiech: It is a certified DOT structure. What more would they need to do?

Zen Wojcik: The tanks that contain the fuel are fine. They are within a structure that if they were to leak, that would be contained. In their spill prevention plan, there are requirements for the area where you could dispense the fuel onto. When fueling a truck, if the filler hose pops out, it would not be able to seep into the ground. There is no difference between the working surfaces at the tanks than anywhere else at the site. That is inconsistent with Millennium's own spill prevention plan. I think they need to bring up their site to their regulations.

Mr. Showalter: Zen, what are you looking for? Are you looking for something like a spill kit?

Zen Wojcik: Exactly what they have in their spill prevention plan, nothing more.

Mr. Singer: So the applicant has not filed it as required.

Mr. Bollenbach: It should be indicated on the map. On the site plan map, just indicate the precautions or measures that have to be installed to comply.

Mr. Singer: Ok.

Mr. McConnell: I think, if I am understanding the Engineer correctly, the surface has to be changed in the area where they are dispensing fuel so that it doesn't absorb into the ground. The plans need to be revised to indicate that. Do we have a copy of Millennium's own plan?

Zen Wojcik: Yes. We do.

Mr. McConnell: Ok. We should ask them to incorporate that into the plan.

Mr. Bollenbach: Yes.

Thomas Sobiech: Millennium refills equipment daily. We have spill prevention. We have a spill prevention kit in every single truck and inspector's vehicles on the premises. Not a quart of any type of liquid could be spilled on top of the ground without it being addressed to a numerous amount of authorities. We do have spill protection in place. They are refilling tractors, equipment, and everything that runs on the pipeline.

Mr. McConnell: Could you explain to me what a spill prevention kit is?

Thomas Sobiech: What I am saying is that we address any type of a spill immediately if anything happens whether it is hydraulic oil or anything. We have spill prevention kits. Everything is in place.

Mr. McConnell: Could you explain to me what a spill prevention kit is? What is in it?

Thomas Sobiech: We call them diapers that soak up. There are containment bags to pick up the soil and contain the soil. Then, we take it to a soil area. We have measures in place.

Mr. McConnell: That is to deal with the spill after it has happened.

Thomas Sobiech: Right.

Mr. McConnell: What I am hearing is that Millennium's own plan calls for a different type of surface in the area of refueling. It would then allow and I am guessing that you would then take the diaper from the kit and blot it up without any of it having been absorbed before the guy notices that it has been spilled. All that we are asking for is for Millennium to follow through on what their plan is. If you think that Millennium would have an issue with that, then perhaps you should have one of their representatives here.

Thomas Sobiech: That is not a problem. We will take care of it.

Mr. McConnell: Ok. That is all. Just say yes, that you would take care of it.

Thomas Sobiech: If we can.

- c. Lot 35.1 contains a mobile home previously approved (10/19/05) by the Planning Board as a residence for the applicant's farm manager. Supply the Building Inspector with the yearly permit renewal and employment documentation per §164-46J(20) and (141).

Mr. Singer: That hasn't been done. It was supposed to be done on a yearly basis.

Thomas Sobiech: I will remove the trailer.

Mr. McConnell: Ok.

Mr. Singer: When?

Thomas Sobiech: It will be done as soon as possible. I don't want the trailer on the property anymore.

Mr. Singer: Is the Board comfortable with ASAP?

Mr. Bollenbach: We need a specific date. It would have to be something for the Board to consider.

Thomas Sobiech: It would be done as soon as I could remove it. I don't want the trailer there anymore.

Mr. McConnell: Do you want 30-days?

Mr. Showalter: Or, do you want 45-days?

Thomas Sobiech: Give me 60 days.

Mr. McConnell: I am not comfortable with 60 days. I think 30 days would be good.

Mr. Singer: I think 30 days is sufficient.

Mr. Bollenbach: That would have to be done by 8/16/08.

- d. Lot 35.3 contains existing dormitory accommodations for housing agricultural workers in three buildings without benefit of a special use permit from the Planning Board. Revise the application to include the dormitories and provide suitable details. Board and applicant to discuss.

Zen Wojcik: Mr. Chairman, I have to amend this comment. I had several conversations with the OCHD. They told me that it is not really a dormitory. It is actually a rental facility for agricultural workers. In this case, I would have to defer it to Mr. Bollenbach. I have seen 3 buildings. I know that Mr. Lupino shows 2 buildings on the plan. What we have in the Building Department is the original plan which was in 1975, when these buildings were built, there are 4 units in each building. There is potential for 12 apartments over there if all 3 buildings are being occupied. Mr. Bollenbach, I don't know how this fits into our Code.

Mr. Bollenbach: I will have to talk to the Building Inspector about that. I will have him do an inspection on that. We will take a look at the prior approvals. I don't know if there is any prior documentation or if there is any current documentation as to the status if they are in fact agricultural workers or not. I don't know. We will have to look into that.

Zen Wojcik: Should we strike this comment or modify it in such a way?

Mr. Bollenbach: Let us keep the comment here. The Board would want some answers before they would take any action.

Mr. Singer: Do these living quarters have to meet certain standards?

Mr. Bollenbach: That is why I will refer it to the Building Inspector. He will do an evaluation.

Mr. Singer: Ok.

- e. Provide the following note on the plans: "As approved by the Planning Board, housing for agricultural workers is provided on SBL 3-1-35.1 and SBL 3-1-35.3, pursuant to the following special conditions:" Insert the full text of §164-46J (20), (21), and (141).

Zen Wojcik: Mr. Chairman, could we go back to comment # 5-a? That comment is in regards to adaptive reuse of the site plan that the Board would be approving. We need that for the record that these uses that are approved by the Board.

Mr. McConnell: We are waiting for a list of uses from the applicant.

Zen Wojcik: There is a list of uses on the plan.

Mr. Showalter: Would this be forever or for just the time they would be doing Millennium Pipeline?

Mr. Bollenbach: What it is right now is the Board approving it as it specifically says under comment #5-a. It says to insert the following: "The use of structures and yard area for maintenance, repair, and storage of machinery, equipment, and fuel for this application has been approved by the Planning Board." That is what the Board is approving. There are provisions that they could make an application to the Building Department if they want to change that use. Upon the Building Departments review of it, yes, it could be changed or it might have to come back before the Planning Board based upon particular criteria like increased traffic, water, septic adequacy, and noise generation. There is a whole litany of items. It does give flexibility to the Building Department so that the applicant could change from one adaptive reuse to another providing that it does not create an additional impact.

Mr. McConnell; I have no problem with adaptive reuse on the plan.

Zen Wojcik: Mr. Chairman, the uses are as follow: a) Warehousing of supplies and equipment. b) Manufacturing assembling, altering, finishing, converting, fabricating, cleaning of any other processing, packing packaging, or repackaging of products of materials. c) Sale or storage of lumber and building materials and equipment. d) Maintenance, repair, and storage of machinery, equipment and fuel. e) Business and professional offices. f) Indoor recreation establishments and/or sports.

Mr. McConnell: John, again that would be the understanding that they would have to come and get approvals for that, if these are the ones. They would have to make a good showing of adequacy and so on.

Mr. Bollenbach: Yes. It would be potential eligibility.

Mr. McConnell: Right. I would have no problem with that.

Comment #6: Site lighting is provided in a manner inconsistent with Chapter 164 of the Town Code.

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

(No response from applicant or their engineer)

Comment #7: The operator of the yard is utilizing construction trailers as offices and box trailers for storage. Provide a letter from the tenant stating when they propose to demobilize from the site and, if demobilization will be done in stages, when and how many trailers will be removed from the site. Provide a \$1000 bond per trailer for removal of the trailers.

Mr. Singer: Did we receive a letter?

Mr. McConnell: Yes. Let me read the letter from Millennium Pipeline. I have a little difficulty with it. The letter is dated 7/12/08 and is stated as follow:

*To Whom It May Concern:*

*Millennium Pipeline's anticipated timeframe for temporary offices to be located in the Mission Land, Pine Island, NY location is that all office trailers currently on site will stay on location through the end of 2008. At least 2 office trailers and 2 parts and maintenance trailers will remain on location through the final cleanup process until July 31, 2009.*

*Sincerely,*

*Larry England  
Chief-Spread 4*

Mr. McConnell: I am not convinced that this says anything other than maybe they would take them or maybe they won't.

Mr. Kowal: The first sentence contradicts the second sentence.

Mr. McConnell: Doesn't it. I am not satisfied with this letter. It does not provide what it was that we spoke about at the work session in terms of trying to get some handle on what trailers are expected to remain and what the uses are. At the work session, I specifically questioned the cleanup that would not convince me that they were really necessary.

Mr. Singer: We are asking them for \$1,000.00 bond for trailers. Do you think we are justified in asking them for more than \$1,000.00 bond per trailer?

Mr. McConnell: With this description, I think more than \$1,000.00 bond would be appropriate. I am just speaking for me. If they want to come back and give more of an internally consistent statement, then maybe \$1,000.00 would be appropriate. As it stands with this letter, I find it inconsistent and inappropriate.

Mr. Singer: How could we handle that?

Mr. Bollenbach: It would be up to the applicant to address.

Mr. Singer: Ok.

Comment #8: Provide a 3-year landscape maintenance bond for mitigation plantings.

Thomas Sobiech: Yes.

Comment #9: Pay outstanding review fees.

Thomas Sobiech: Yes.

Mr. Bollenbach: We will need a landscape plan. The applicant will need to provide a landscape plan as outlined by the Town Planner. They will have to do the cost calculations. The applicant will have to provide it for Tectonic's review.

Mr. Singer: I am concerned that there are many things that we are asking the applicant to do and the clock is ticking. He could wait quite awhile to do these things and these problems will continue.

Mr. Bollenbach: I think the Building Department has already gotten impatient. The plan was supposed to be provided within 15 days of the Notice of Violation. It is still not up to speed.

Mr. Singer: Right.

Mr. Bollenbach: The Building Department might take additional enforcement action.

Mr. Singer: Ok. This is a public hearing. If there is anyone in the audience wishing to address the Thomas Sobiech # 2 application, please rise and state your name for the record.

Mr. and Mrs. Ross Folino come before the Board to speak their concerns.

Ross Folino: I live on Brozdowski Lane. From a homeowners perspective, I have written a letter addressed to the Planning Board, dated 7/16/08 regarding our concerns: The letter is stated as follow:

*I would like to read my comments in whole for the sake of sharing the total perspective, questions included, and then ask you to address the questions.*

*In the 26 years my family has lived on Brozdowski Lane, we have never experienced such intrusion on our rural and peaceful environment as at present due to Millennium Pipeline's activities on the Sobiech properties. We accept and know about farming-related activities.*

*This is totally different. People have to deal with the pipeline if it is on, or adjacent to, their property, temporarily, but the situation on Brozdowski Lane is here for the duration of Warwick area work, we assume. We don't know because no information has been provided to us.*

*What I do mean by intrusion?*

*First of all is noise, from sunrise to sunset, six days a week. On July 4, the noise continued until well after 9 p.m. and on one recent night, until 11 p.m. There is the constant high pitched, piercing noise of OSHA-required back-up alarms for forklifts, etc. There is also the noise of other large equipment plus large pipes being moved about, dripped on blacktop and welded in an outdoor factory area. At the end of the day, it sounds like a car wash is being operated less than 100 feet away as trucks and other equipment are hosed down in the middle of the road. There is also the issue of light pollution from the battery of elevated lights which glare over surrounding properties. We are not used to having our front and back yard lit up all night.*

*There's a lot more than construction equipment being stored and moved on this property. No one in this room would like to live like this. Imagine the Maybrook Truck Stop moving next you overnight. This activity is directly adjacent to a zoned residential area. Why do my family and others have to sacrifice? What's our compensation?*

*Secondly, is the right-of-way.*

*Our title company guarantees ingress and egress on Brozdowski Lane, right through what has become a "staging yard" with no clear boundaries. Many mornings, the five employed adults in our household have been forced to wait until trucks or busloads of hundreds of pipeline employees negotiate their way through a single lane. It's pure chaos with no one handling it.*

*Shouldn't there be official signs and markings to designate the right of way? Who is going to enforce it?*

*Why was the Pipeline Company allowed to take down and move the location of our street sign to the opposite side of the lane where it is hidden from traffic coming down the already hazardous hill on County Route 1? And why can't some pipeline workers meet at another location? I've noticed that some congregate in the parking lot of the Jolly Onion Inn.*

*There are so many vehicles on our lane, that in addition to the designated acreage being discussed for this permit, they are sometimes lined up for a quarter mile along Mission Land Road. It is frustrating not knowing from day to day, if one will be able to get out to work without obstruction and on returning, whether the roadway will be clear and how many vehicles, workers, and potholes one will have to dodge around.*

*Third is monetary repercussions.*

*I am a lifelong resident and taxpayer and expect to be protected by Town Ordinance and Laws. As long as this so-called "staging area" is going on, my house is incurring a loss of value. If I sold my house now, I would get less, due to the presence of constant noise, light pollution, the deteriorating roadway, vehicles parked helter-skelter amid acres of hastily*

*graveled-over and bumpy terrain with long stretches of sagging, plastic orange fencing. The only benefit to this has been that decades of accumulated garbage and debris surrounding the Sobiech migrant labor camp has been removed and replaced by large gravel, through the cutting down of numerous trees is to be regretted.*

*These conditions are all the more reason why the current use of this property should be structured and monitored and why a definite timeline should be enforced for the expiration of the permit and a complete clean-up of the property.*

*In reference to the right-of-way, property owners like us are responsible for maintenance, not the Town. My neighbor and I have over the years, purchased crushed stone to fill and periodically filled in potholes. Currently, conditions are deteriorating daily and it isn't even mud or frost season. Why should we be put out financially for the sake of the rich pipeline company? They should be forced to maintain and improve (with shale, stone, chips or whatever) the few hundred yards they use daily, then pave it when finished as compensation for the disruption. How can this be incorporated into the permit?*

#### *Safety Issues*

*I have mentioned the chaos on the right-of-way, especially in the morning, but any time of day one has to be careful driving through. Many times, the workers are oblivious to passenger cars coming through. Again, there is a need for communication and signage.*

*Also, there are numerous propane tanks in the yard. All I see is a "No Smoking" sign. Shouldn't these be locked up with flammable signs? It indicates a lack of concern and diligence that is worrying.*

#### *Special Use Permit and Staging Yard & Storage*

*With all due respect, why is the application for a permit being done after the pipeline company is well ensconced for months? What's the chronology? Did they sneak in without the knowledge of the Town and ignore the law? Was this approved by anyone?*

*The use of the property is more than a storage yard. It is an outdoor factory with welding and other activities, operation more than 15 hours per day, 6 days a week. It is also a people depot where workers meet, stand around, board buses and travel elsewhere to work.*

*What is the definition of staging yard?*

*How long is this permit for and will granting it set a precedent for similar circumstances?*

*In conclusion, we are not the outsiders; the pipeline company is. I know that life isn't a tidy and neat as we would like it to be, but I'm also old enough not to be deceived and right now, I feel stepped on.*

*My family feels that we should come away from this meeting with something tangible to make this unfortunate situation tolerable. The precedent is that if rules aren't made and enforced, then they are bent and broken. We would like to get back to our normal quiet life on Brozdowski Lane.*

*We wonder who is responsible for enforcing laws and ordinances covering this property? You have not enforced prior rulings on the installation of a trailer, supposedly temporary, by this property owner on the same acreage concerned in this permit application. With this history of no enforcement, how will you be able to address a vastly larger and complex use of the property?*

*Thank you for your attention.*

Mr. Singer: Most of these issues, we have addressed. Some of the additional issues that you have, we will talk about it at a work session and bring it to the attention of the Building Inspector. He will perhaps issue further violations.

Ross Folino: Ok. We are very concerned about that right-of-way. We are also concerned about living day to day.

Mr. Singer: I feel bad about your situation. We will look into it.

Ross Folino: Thank you.

Mrs. Folino: What form would your decision be rendered? How would we get a copy of that?

Mr. Singer: We will be discussing it at a work session.

Mr. Bollenbach: It is assuming that the public hearing is continued or adjourned to a specific date. It will be further reviewed. If everything was in order, the Board could have taken action this evening. The Board would then grant an approval with conditions. If you want a copy of that, you could contact Connie, the Planning Board Secretary. She would give you a copy of that.

Mr. McConnell: But, we are not going to make a decision tonight. We don't have enough information. That was some of the exchange going back and forth with the applicant was the condition of the information that we have was short.

Ross Folino: Ok. Thank you.

Mrs. Folino: Thank you.

Mr. Bollenbach: Some of the other issues that have been raised were in regards to the hours of operation, performance standards, Brozdowski Lane improvements and maintenance, and traffic control devices. Those would be some additional issues that the applicant could provide Tectonic with so that we could evaluate it.

Mr. Kowal: As far as the condition of Brozdowski Lane, would that be their responsibility? I would like to see someone from Millennium come and discuss how they would plan to leave the road when they are done.

Mr. Bollenbach: That would be for the applicant to tell the Board.

Mr. Showalter: I was going to make the same suggestion. It might help the applicant if they had a Millennium person here to clarify and answer some questions of the Board and of the public.

Mr. Bollenbach: Take a look at Entin Terrace. That will be paved in its entirety. Why would this be any different. What mechanisms could be put into place now to minimize the dust or minimize the inconvenience to the neighborhood. That would be temporary provisions. We should ask the applicant to provide that to the Board for the Board's review.

Mr. Singer: Based upon the inconvenience of the people using that road, we should insist on it to be paved when they leave.

Mr. Bollenbach: That would be a year from now. Maybe there could be something else done in the meantime.

Mr. Showalter: Maybe, they could place a flagman over there to help out with the traffic control issue.

Mr. Bollenbach: It would be a controlled access. It would have to be defined. That would be something else the applicant could provide.

Mr. Singer: Is there anyone else wishing to address the Thomas Sobiech #2 application?

Tomina Kaplan: I live right across from the pipeline. The only thing that bothers me is the damage that is being done on the road. I drive a car. Pickup trucks don't have a problem. Regarding the lighting, they have turned the lights down. The lights don't shine. The lighting never bothered me. Regarding noise, that would be with any construction site. The idea is that the road should be maintained. It should be maintained now, not when they leave. When I back out of my driveway, I should be able to leave. The bumps and holes should be maintained now, not when they leave. Ross and I drive cars. It is pretty rocky in there. If you drive a pickup truck, you wouldn't have a problem. The noise will happen in any construction site. There should be something like where you can't mow your lawns at a certain time of day.

Mr. Bollenbach: There are hours of operation.

Mr. Singer: Are they making noise on Sundays?

Tomina Kaplan: No. Not all the time. They come in and out. They have night crews and day crews.

Mr. Showalter: John, are they exempted because of the Federally related project?

Mr. Bollenbach: We will have to take a look. They don't have the approval. That is why they are before the Planning Board. This is on private property. It is not on Millennium property.

Mr. Singer: This applicant doesn't seem to be in a rush to take care of these problems.

Mr. Bollenbach: That is why it will be referred to the Building Inspector. We will have him take appropriate action. I can't tell you anymore. I am not the Building Inspector.

Mr. Singer: Ok. Is there anyone else wishing to address the Thomas Sobiech #2 application?

Mr. McConnell: Ms. Kaplan, are you finished speaking?

Tomina Kaplan: I have spoken to the owner of the company. He has assured me that he would fix that road.

Mr. McConnell: Get it in writing.

Mr. Singer: Did you talk to Millennium or Mr. Sobiech?

Tomina Kaplan: I talked to the owner of the company itself.

Mr. McConnell: It must be the contractor doing the work.

Tomina Kaplan: No. It was Millennium.

Mr. McConnell: Get it in writing.

Mr. Singer: Is there anyone else wishing to address the Thomas Sobiech #2 application? Let the record show no further public comment.

Mr. Bollenbach: What is the Board's pleasure? Should we adjourn the public hearing?

Mr. McConnell: We should adjourn the public hearing until we get more information?

**Mr. McConnell makes a motion to adjourn the Thomas Sobiech #2 Public Hearing to the August 20, 2008 Planning Board meeting.**

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

Mr. McConnell: To the public who came out for the Sobiech #2 public hearing, the public hearing has been adjourned to the 8/20/08 Planning Board meeting. There will be no other notices sent out. This is your notice.

**PUBLIC HEARING OF Marco Giovannoli**

Application for Final Approval of a proposed 3-Lot subdivision, situated on tax parcel S 12 B 3 L 33; parcel located on the northern side of Little Brooklyn Road 830± feet east of County Route 1, in the AI zone, of the Town of Warwick, 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 an Unlisted Action.

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

Connie Sardo: Mr. Chairman, I have received the certified mailings for the Giovannoli public hearing.

Mr. Singer: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Wetland line field verified 6/23/08.
2. Applicant to discuss project.
3. Applicant has proposed a private road as access for Lots 1, 2 & 3. Applicant requests a waiver for 16-foot-wide roadway width. Board and applicant to discuss. A tar & chip road surface is proposed. Board and applicant to discuss.
4. Note the limit of the private road and the beginning of driveways.
5. Revise the Typical Driveway Pavement Section to comply with §A168-19; 2-in-depth of NYSDOT Type 6 and 8-in-depth of subbase.
6. Trees are noted within the sight distance triangles shown on sheet 3. Revise the sight triangle calculation for a “stop” condition before entering Little Brooklyn Road, and place a “STOP” sign on the private road (provide a detail). If the trees are still within the sight triangles, note that they should be removed.
7. Show how runoff will be managed at the site.
8. Place the standard Lighting Note on the plans.
9. Provide a copy of the submitted NOI.
10. Provide the declaration and the recording information on the plan for Aquifer Protection Overlay Notes and Private Road Use and Maintenance Agreement Notes.
11. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
12. Propose a name for the private road; applicant to provide 9-1-1 addressing.
13. Pay Performance Bond and Construction Inspection Fee for private road, stormwater management facilities, and erosion control.
14. Pay Parkland Fees.
15. Pay Outstanding Review Fees.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§A168 Attachment 2	Spec. for Open Area Development Roads – Waiver from typical road section (20 feet in width and 5 foot shoulders). Applicant requests 18

	foot roadway width and 1 foot shoulders.

The following comment submitted by the Conservation Board, dated 7/16/08:

Marco Giovannoli – CB has no comment.

The following comment submitted by the ARB, dated 7/16/08:

Marco Giovannoli – None submitted.

Comment #1: Board to discuss SEQR.

A. Wetland line field verified 6/23/08.

Mr. McConnell: The following SEQR comment has been prepared by Mr. Ted Fink, dated 7/16/08: “The Planning Board is the SEQR Lead Agency on this Subdivision Plan application. The primary outstanding SEQR issue was the verification of the on-site wetlands. This has been accomplished by Karen Schneller-McDonald, who field verified the wetlands flags with David Griggs on June 23, 2008. She was in agreement with the placement of the flags. A draft Negative Declaration has been prepared to address SEQR.”

Comment #2: Applicant to discuss project.

Dave Getz: Mr. Giovannoli owns about 9.8 acres located on Little Brooklyn Road. There is one existing home located on the property. We propose 2 new homes on the property. We have had a site visit with the Planning Board. Since our last appearance, we have made a few minor changes as recommended by the Board. The general layout of the plan is very similar. The biggest change was to show the common access to the new lots and to the existing garage area to be accomplished with a private road rather than a common driveway.

Comment #3: Applicant has proposed a private road as access for Lots 1, 2 & 3. Applicant requests a waiver for 16-foot-wide roadway width. Board and applicant to discuss. A tar & chip road surface is proposed. Board and applicant to discuss.

Mr. Singer: How does the Board feel about that?

Mr. McConnell: I would like to hear the reason for the request.

Dave Getz: The reason is that it only accesses 2 lots except for a small stub off the beginning. It is not feasible that the road could be extended to serve other properties because of the vast wetlands on this property and on the neighboring properties. Due to the limited number of lots, we felt that 16 feet would be appropriate.

Zen Wojcik: Mr. Chairman, I think I had a typo in there. The Board had talked about an 18-foot wide roadway. I put in the comment 16-foot rather than 18-foot.

Dave Getz: Our detail shows 16 feet of pavement plus 1-foot shoulder on either side.

Zen Wojcik: Do you want a 16-foot wide roadway?

Dave Getz: Yes. That is what we show on the plan.

Zen Wojcik: All right. At the last meeting, it was discussed to be 18 feet.

Mr. Singer: To clarify it for the Board, they are required to put a 20-foot wide roadway with 5-foot shoulders. They are asking for a 16-foot wide roadway with 1-foot shoulders.

Mr. Bollenbach: It would probably be adequate. The Board should consider having it asphalt paved. If the waiver is going to be granted, we need to make sure that the stability of that roadway is satisfied.

Mr. Singer: Let us address that issue.

Mr. McConnell: Dave you are showing it as 16 feet from start to finish.

Dave Getz: Yes.

Mr. McConnell: Wouldn't it be appropriate to make it wider at the very beginning because of that little stub coming off? When you get up to the split for the proposed 2 dwellings they don't really interact with one another. I think it would be appropriate if we were to grant the waiver to make it wider at the front entrance. We are going to eliminate a cut because of the angle coming in from the existing home. I would be more comfortable if that access at the front end was wider.

Mr. Singer: How long?

Mr. McConnell: I think until it gets past the cut from the driveway to the existing area.

Dave Getz: We don't have a problem with that idea.

Mr. Bollenbach: Zen, would we call that an apron area?

Zen Wojcik: Yes.

Mr. Singer: The Board also has to discuss the applicant's desire to use tar and chip instead of paving it. I for one would prefer him to pave the whole thing. I don't know how the rest of the Board feels about that.

Mr. McConnell: That is what the code says. It says asphalt paving.

Mr. Singer: Yes.

Mr. Showalter: Dave, I don't know why you keep asking for a waiver on this. Dave, I think you know what we like.

Dave Getz: We will pave it.

Mr. McConnell: We like paving.

Comment #4: Note the limit of the private road and the beginning of driveways.

Dave Getz: Will do. We will make that clear on the map.

Comment #5: Revise the Typical Driveway Pavement Section to comply with §A168-19; 2-in-depth of NYSDOT Type 6 and 8-in-depth of subbase.

Dave Getz: Ok.

Comment #6: Trees are noted within the sight distance triangles shown on sheet 3. Revise the sight triangle calculation for a “stop” condition before entering Little Brooklyn Road, and place a “STOP” sign on the private road (provide a detail). If the trees are still within the sight triangles, note that they should be removed.

Dave Getz: Will do. We will do the STOP sign. There are some existing trees along the edge of the road that I believe will fall within the sight triangles. If they are mature trees with just the trunk there without branches that block any vision, could that be a sight decision during construction as to whether they might be able to remain? Is it automatically required that all trees be removed within sight triangles?

Mr. Singer: Do you want to have Ted take a look at that?

Zen Wojcik: That would be a good idea.

Mr. Singer: We will ask Ted to do that.

Dave Getz: Ok. We are willing to do that. We don't want it to be something that would hold up a decision. He would be willing to remove them if needed. We are just trying to preserve a nice tree.

Mr. Singer: Ok.

Mr. Bollenbach: We should have a note that says; they should be removed upon the advice of the Town Planner.

Mr. Singer: Excellent.

Comment #7: Show how runoff will be managed at the site.

Dave Getz: The general drainage pattern is from Little Brooklyn Road back to the rear of the site towards the wetlands. I know that neighbors have raised a concern about drainage in the area. We have gone out to the site soon after some heavy downpours earlier this year.

We didn't find any locations within this proposed developed area that had any wash out or erosion problems. The grading of the disturbed area would be such that the 2 new homes would be higher than the driveway and the private road that leads to them. Runoff would continue to head from the road towards the back of the property. During a heavy storm as

water collects, it will float between and around the homes. We feel that we are not impacting any neighbors. The drainage patterns will be such so the new houses would be safe.

Zen Wojcik: If it flows between the homes, it would be flowing over the private roadway.

Dave Getz: Yes.

Zen Wojcik: If it is a late winter storm, it could possibly freeze on the road. If we had an ambulance or a fire apparatus going down there, that would be a hazardous location. It is fairly a flat grade that you have here. It is not enough for me to determine where the water would wind up and if it would not pond on this area that you would be developing as the road. That is why I am asking to show how the runoff would be managed.

Dave Getz: Ok.

Mr. Bollenbach: We will add to comment #7, revise to Town Engineer's specifications.

Comment #8: Place the standard Lighting Note on the plans.

Dave Getz: Ok.

Comment #9: Provide a copy of the submitted NOI.

Dave Getz: Will do.

Comment #10: Provide the declaration and the recording information on the plan for Aquifer Protection Overlay Notes and Private Road Use and Maintenance Agreement Notes.

Dave Getz: Will do.

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

Dave Getz: Ok.

Comment #12: Propose a name for the private road; applicant to provide 9-1-1 addressing.

Dave Getz: Ok.

Comment #13: Pay Performance Bond and Construction Inspection Fee for private road, stormwater management facilities, and erosion control.

Dave Getz: Ok.

Comment #14: Pay Parkland Fees.

Dave Getz: That is understood.

Comment #15: Pay Outstanding Review Fees.

Dave Getz: That is understood.

### WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§A168 Attachment 2	Spec. for Open Area Development Roads – Waiver from typical road section (20 feet in width and 5 foot shoulders). Applicant requests 18 foot roadway width and 1 foot shoulders.

Mr. Bollenbach: We need to add another comment. You will need to revise Aquifer notes. These are not the current Aquifer notes.

Dave Getz: Ok.

Mr. Singer: This is a public hearing. If there is anyone in the audience wishing to address the Marco Giovannoli application, please rise and state your name for the record?

David Gurda: I am the owner of Davanger Farms. This project borders our property. You heard from Mr. Ruszkiewicz before. We do get a lot of runoff from that. The sewage will eventually seep out into the black dirt. I am completely against this. I think the area is too congested as it is. It is a small neighborhood. It is too small to put in more homes.

Mr. Singer: Are you saying you are going to get the runoff into the black dirt?

David Gurda: Correct. Where you are proposing those homes are right on the edge of the black dirt. It is too close to the black dirt.

Mr. Singer: Zen, how do you feel about that?

Zen Wojcik: It is close to the black dirt. However, the soils that the septic systems are in are not black dirt soils. The State has a requirement for setbacks from areas of environmental concern like ponds and streams and agricultural soil like black dirt. It may allow you to put a septic system closer than where these are. These are about 100 feet away from the black dirt. When we did the soils testing and watched the percs and deeps, I asked my inspectors to monitor the types of soils because the dirt along the edge of the black dirt sometimes has been filled and there may be organic material below that. There was no black dirt. I am fairly certain that the soils that these septic systems would be in are acceptable. The whole activity of septic systems occurs in the top 4 feet of the soil. That is the science of doing the septic. That is where it all occurs if it is designed properly and they have been designed, in accordance with the State's Department of Health regulations. We have reviewed the soils. We are confident that if they are maintained properly there would not be a problem in the short term certainly and probably not in the long term. It is a very good point that you are making. You heard us discuss about the runoff. We are concerned about that. The water runoff right now goes into the black dirt area. There will be more impervious surface here although not a great deal of impervious surface. That might be one of the things the applicant might want to consider. The applicant might want to consider ways of slowing down that runoff allowing it to seep into those upland soils before it actually gets into the black dirt soils.

David Gurda: That is how I feel. I feel that it is too close to the black dirt. It will create problems in the future.

Mr. Kowal: When you had done the percs and deeps, how deep of a hole did you do?

Zen Wojcik: We had done 8 feet deep holes.

Dave Getz: The percs are done 2 feet down. That is the depth of the system.

Zen Wojcik: The deep pits were 8 feet deep.

Mr. Singer: Is there anyone else wishing to address the Giovannoli subdivision?

Dave Getz: I would like to add that some of the test holes went down 10 feet deep. The shallowest deep test was 8 feet deep.

Milton Mesirow: Has there been an environmental study?

Mr. Bollenbach: Zen, do you want to talk a little bit about the septic requirements on how they were done, the percs and deeps?

Zen Wojcik: The only real environmental study done was for the design of the septic systems.

Milton Mesirow: Is that all?

Zen Wojcik: This project did not have an Environmental Impact Statement. The Board did not feel that it came up to the requirements for an EIS. The wetlands on the site were delineated by Karen Schneller-McDonald. She agreed with the line that was sent by the applicant's scientist in that it is black dirt and it needs to be protected. We read a report about that. Again, that is not really a sensitive environmental study as to an in depth study of what materials would be going in where or anything like that. A 2 or 3 lot subdivision like this doesn't generate an awful lot of material. It is a very small impact. The thresholds for having a full environmental report are very specific. A project of this size usually doesn't come up those special requirements.

Mr. McConnell: It was part of the SEQR review. It was determined that it wasn't required to do an Environmental Impact Study.

Zen Wojcik: They prepared an EAF (Environmental Assessment Form). Our Planner had reviewed the EAF. If any of the comments in there met the threshold requirements, it would have asked for a Full EAF. This type of a development doesn't need anything special.

Milton Mesirow: Does that include wells?

Zen Wojcik: There will be wells on this site.

Milton Mesirow: Are they not subject to whatever runs from the black dirt?

Zen Wojcik: They are not shallow wells. Nobody drinks from shallow wells anymore. If you are going to drill a new well, more than likely it would be several hundred feet.

Milton Mesirow: More than likely. I have one other thing. Why did we not get a notice until Monday about this proposal? All of a sudden, this is a final proposal.

Connie Sardo: What is the postmark date on the notice?

Milton Mesirow: First of all, it was a notice of a certified letter that was at our post office mailbox. That was on Saturday. We were home. They did not knock on the door. I went to the post office on Monday to find out what it was. I spoke to the Post Master.

Connie Sardo: They have to be mailed out 5 days before the scheduled public hearing.

Mrs. Mesirow: We received it on Monday when we picked it up from the post office.

Mr. Bollenbach: Now that you are hear, do you have any additional concerns?

Mr. Singer: You are here. We are glad that you were able to get the notice in time.

Milton Mesirow: If you call that time for a final notice.

Mr. Singer: Do you have any other comments?

Milton Mesirow: I have plenty of comments. I will leave them for later.

Mr. Singer: Is there anyone else wishing to address the Giovannoli subdivision?

Donna Cote: We are very concerned. I don't understand how this could go through when you read all of these documents on the Warwick website about Zoning, Conservation, and Agriculture. Everything you read is about preserving that. Now, you want to shove 2 houses in here right on top of the black dirt. We live right next door. We have a 7-acre farm that we are starting to work on for the past couple of years. There is farmland all around. How could this go through? How could you allow this to happen? This is not preserving the agriculture. It is not preserving the farmland. You are letting more people come in. They will make a few bucks. We are then stuck with more houses. It is a very small road. Little Brooklyn Road is a very narrow road. I don't know if you have been there. There is not room for a lot of traffic. Too many things are red flags that shouldn't go on. I don't understand why this is being allowed to happen.

Mr. Singer: We have a Code. It is the Planning Board's job to enforce the Code. The applicant is trying to abide by the Code.

Donna Cote: They are trying to. There is no guarantee. You can't guarantee after this is in for a year that everything would be according to the way that you say it would have to be. It doesn't make sense if this helping preserve what Warwick looks for on what the people here want.

Mr. Singer: Ok. Is there anyone else wishing to address the Giovannoli subdivision?

Kevin Cote: If you read this stuff here on the purpose of Zoning, it says the following: *A) Protect and enhance the rural character and quality of life in the Town. B) Support the economic viability of farming. C) Preserve as many of the operating farms as possible.* This

was an operating farm. It was the old Youngman property. There are inaccuracies on that. I think they need to be checked out. Is this the final approval? How could this be the final approval? I was here for one Planning Board meeting. I don't understand this. There are springs. First of all, that line of the black dirt is wrong. There are springs in there. I have been in there. I have had my tractor stuck in there mowing for the previous owner. There are total inaccuracies. Have any of you been there to check it out? Do you have ticks on you, hear my dog barking, and have mud on your shoes?

Mr. Singer: We have all been there.

Kevin Cote: I don't think you have. I haven't seen you.

Mr. Showalter: We have been there. We weren't on your property. We were on the applicant's property.

Donna Cote: But, it is right next to it. This will impact our property and farmland.

Mr. McConnell: What is your expectation of the impact that this would cause other than giving you two new neighbors?

Donna Cote: It could. You can't guarantee me that it won't. We have a pond. We have fish. We have birds. I don't want them to disappear. People come in and wildlife disappears.

Mr. McConnell: I have asked a question. What is it that you expect this will do to your property other than give you two new neighbors? You said, I don't want my pond to disappear. I am not seeing the connection between two new neighbors and your pond disappearing.

Donna Cote: Pollutants?

Mr. McConnell: From what?

Donna Cote: From the septic systems and the houses. There will be an impact. You can't tell me that there won't be.

Mr. McConnell: What I could tell you is that the State Department of Health has formulated guidelines and requirements for things like septic systems. These are statewide. Independent engineers that we hire review them. The Town hires an engineer to review plans like this to make sure the systems are designed and built according to the standards set by the State. You could argue all day long. I can't argue against it that it may not be adequate. So far, that is the State of the technology at this point. This is what the State tells us is the minimum. If someone comes in with an engineered plan that meets the requirements that the State has set and verified by our engineers, I am at a loss to see how I could say that I cannot guarantee that it won't fail at some point, so therefore we are not going to approve this. That is not reasonable. I understand that you are not happy about having two new neighbors. It is what it is.

Donna Cote: I heard you say earlier that since it was so small there was no environmental study done.

Mr. McConnell: The State sets standards.

Donna Cote: I understand that. Nothing has been done.

Mr. McConnell: It didn't meet the standards or cross the threshold to trigger an even greater inquiry. I don't know what I could do about that. They have met the standards.

Donna Cote: If I find some rare bird and prove that it lives there...

Mr. McConnell: Does it live on your property also?

Donna Cote: If that was to be found, would that be reason to have an environmental study done?

Zen Wojcik: This applicant like all the others have to contact the State. The State has an office that keeps track of where the endangered species are because of habitat. Reports go to them. They contacted them earlier on in the project. Were there any endangered species on this site? The answer is no. In some parts of this Town, we do have them. We don't have this type of environment of a habitat at this location.

Donna Cote: So, that has been looked at.

Zen Wojcik: That has been looked at as part of the EAF.

Dave Getz: One of the topics that was discussed at the site visit, we have worked hard keeping the disturbance within the lawn area on the property. We did not want to remove the mature trees that border the wetlands or other rows of trees that are present. In terms of environmental impact, we are keeping the proposed disturbance within an area that has already been disturbed.

Mr. McConnell: The EAF is part of the public record. You could go to the Town Hall to get a copy of it.

Kevin Cote: Regarding the ditches drain in the black dirt, you have all been out there, do you know which way the ditches drain? This affects our property and farm. There is going to be a lot of separation between our driveways.

Mr. McConnell: Just as people who lived there before you did, had to be concerned about you coming in and out of the road.

Kevin Cote: Our house was built in 1910. Nothing has changed except I have improved the house.

Mr. McConnell: You probably have more vehicles than the people who owned it in 1910. We hire professionals to advise us. I rely on our professionals to tell me that the drainage is being sufficiently and properly handled.

Kevin Cote: Why do my fields flood? The ditches on this property have not been maintained. That is why that happens. If you were there, you would have known that. You were not there. You did not look. You did not do your homework. You do this all the time.

You approve subdivisions all over this Town. I moved here in 1992. I avoid the Village now because of the congestion.

Mr. McConnell: We have nothing to do with the Village.

Kevin Cote: Those ditches have not been maintained. My fields flood. I have a big spring fed pond on my farm that we use for irrigation. It drains down towards C.R. #1.

Mr. Singer: Our Town Planner will be going out there to look at the sight triangles. I will ask him to also look at the ditches.

Kevin Cote: Could I find out when that would be so that I could meet with him and show him?

Mr. Singer: We don't know yet. Ted, is not here this evening.

Kevin Cote: Who is that? I would like to contact him and meet him there.

Mr. Singer: His name is Ted Fink. Stop in during the week or give Connie a call.

Connie Sardo: Give Zen a call on either Tuesday or Thursday to set it up.

Kevin Cote: I will give Zen a call. That map is inaccurate. It has to be changed.

Mr. Bollenbach: What in particular do you believe is inaccurate?

Kevin Cote: The delineation of the black dirt.

Mr. McConnell: Maybe, you did not hear earlier when I was reading Ted's memo, dated 7/16/08. "The primary outstanding SEQR issue was the verification of the on-site wetlands. This has been accomplished by Karen Schneller-McDonald, who field verified the wetlands flags with David Griggs on June 23, 2008." We hired an expert to meet with their expert to determine whether what their expert had done was accurate. Our expert says that it is. If you have different information, then I suggest you get a copy of that map, lay it out, and submit it to us. Then, we will have our expert look at it to see whether it corresponds with what she observed in the field. Does that make sense?

Kevin Cote: It makes sense that I work the land. I have dirt on my hands that I can't get off because I farm in the black dirt. It is your job to preserve the black dirt. It says right in this thing that we pay millions of dollars for. I just want to see you do your job.

Mr. Singer: Is there anyone else wishing to address the Giovannoli subdivision?

Milton Mesirow: How far from a septic system should wells be?

Zen Wojcik: It is a minimum of 100 feet. If the well is downhill from a septic system, it has to be 200 feet away.

Milton Mesirow: They way it is planned on there they are downhill from me.

Dave Getz: They are shown to be 200 feet.

Milton Mesirow: What about for an existing well?

Zen Wojcik: It doesn't matter whether it is existing or proposed. The regulations are the same. If a well has been there 100 years or it hasn't been drilled yet, it still has to have the same separation for the septic system.

Milton Mesirow: Ok. Thank you.

Mr. Singer: Is there anyone else wishing to address the Giovannoli subdivision?

John Coates: I live on Little Brooklyn Road. The minimum lot size is 1.5 acres. Is that correct?

Zen Wojcik: Yes.

John Coates: Is that lot size buildable?

Zen Wojcik: It is just area.

John Coates: You could have a 50x50 square and 300 feet of black dirt, you could still build a house.

Zen Wojcik: You need a 5,000 square foot buildable area.

John Coates: Ok. That is all you need.

Zen Wojcik: That is what the Code says.

John Coates: 5,000 square feet, but I have to have the well 100 feet from my septic.

Zen Wojcik: It is tricky.

John Coates: Could I put the well right next to the house?

Zen Wojcik: You could do a lot of different things. It is tricky. I haven't seen any lot in Warwick that meets that requirement.

John Coates: Ok. We have a drainage problem right now with water runoff on Little Brooklyn Road. That is with our not having a berm in front of our house. We were like an island during the runoff. It doesn't get any better. The proposed subdivision is downhill from us. All the water that we got that ran that way runs across Kevin's R.O.W. and across the proposed 50-foot road with 20 feet of pavement. Will that road be higher?

Zen Wojcik: You heard the conversation before where we were asking the engineer to clarify how the drainage would be managed for this site. After, I had a conversation with Mrs. Cotes, I had contacted the engineer and told him that I have heard from a neighbor that there was a drainage problem. Dave, I think you went out there after one of our recent conferences.

Dave Getz: Yes. We took some pictures. We showed them at a work session.

Zen Wojcik: Mr. Cotes, I see that you are holding some pictures. Perhaps, you would like to show the Chairman something different.

John Coates: In the pictures that I have, it shows that it would be directed towards the property. These are pictures of drainage problems.

Mr. McConnell: Zen, do you want to explain SWPPP?

Zen Wojcik: This project did not have enough disturbance for a SWPPP. The technical part of a SWPPP that is applicable for a project with this little disturbance is erosion control.

Mr. Singer: In these photographs that you are showing us, is that water on Little Brooklyn Road?

John Coates: The water came across Little Brooklyn Road.

Mr. Singer: In the photographs, is that your property that is under water?

John Coates: Yes. Both sides of it.

Mr. Singer: Is this a frequent occurrence or once in awhile.

John Coates: I would like to say that it happens once every 50 years. It hasn't. It has happened 4 times in the last 2 years.

Zen Wojcik asks Mr. Cotes to show him on the map where the water comes off. Mr. Cotes shows Zen on the map where the water flows and where the flooding problems happen. Then, they show Dave Getz, the applicant's engineer where the water problems are. Zen states that it is on the other side and that the water is a problem in the neighborhood, but it doesn't get involved with this project. Zen asks Kevin and Donna Cote that after a heavy rain, do they get a lot of water going down their driveway. Kevin Cote says they have it in their garage. It goes downhill.

Zen Wojcik: Mr. Giovannoli, when water goes on Little Brooklyn Road, does it go down your driveway to your barn?

Marco Giovannoli: No. It comes on my driveway, but there is a little divot in front of the garage that takes it around the garage.

Zen Wojcik: Mr. Chairman, that goes to the point that we were making earlier. We asked the applicant to come a little bit clearer on what happens with the drainage in the area of the runoff.

Dave Getz: I would like to point out that the new proposed Private Road will be lower in elevation than the Cote's existing driveway.

Zen Wojcik: It seems that it will be catching the water.

Dave Getz: Yes. I feel confident with what we are proposing will not discharge any water onto neighboring properties. As Zen had said, we will be clarifying on what happens at the end of our road to that drainage.

Mr. Singer: Ok. You will check into that.

Jackie Coates: I live on Little Brooklyn Road. Mr. Giovannoli is not in a position to tell anybody how the water runs across his property because he doesn't live there. He was not present when these storms took place and we had the flooding. He really can't accurately describe how the water passes on his property.

Mr. Singer: He has not said too much.

John Cotes: His representative has.

Jackie Coates: We have lived through it. We were out with the shovels and the rigs trying to direct the water to keep our basement from flooding again. In all fairness to the people that had to deal with this, he doesn't really know how bad it is.

Mr. McConnell: Are you concerned that the 2 new dwellings would have water problems that are not anticipating or are you concerned that the 2 new dwellings would cause problems to your property and these folks properties? I am trying to identify where you are coming from.

John Coates: He has already addressed that they would take care of the water that would be rushing down to the 2 new dwellings.

Mr. McConnell: Ok.

John Coates: I am concerned with the water that is there right now. Rather not this would impact me, I don't know. If I could dig a trench to divert all the water from around my house down between the two right-of-ways...

Mr. McConnell: Dave, do you expect from your many years of professional experience and your observations out here and what you have designed and what you will clarify for us, whether the water that Mr. Cotes' is talking about is going to a) impact these proposed dwellings b) cause an increase of any water on adjoining properties?

Dave Getz: I would say no to both. The proposed road and proposed homes are downhill. They are at lower elevations from the existing houses and driveways. You are discussing water that is coming from Little Brooklyn Road. Is that correct?

John Coates: Right.

Dave Getz: We are not going to be helping that any, but we won't be changing it at all. In terms of the new homes, we have shown grading. We will make it as clear as we can. Around the homes, the finish grade needs to pitch away in all directions. They are trying to be sticklers about that.

Mr. McConnell: It won't pitch it away out to adjoining properties.

Dave Getz: No. We are going to be about 10 or 15 feet lower than the adjoining properties.

Mr. McConnell: Right. The first rule is do not harm anyone near you. You are confident that you are in that position.

Dave Getz: Yes.

Mr. McConnell: Then, the next one is obviously yourself interest. Mr. Giovannoli's self interest is to not create a situation where he has people coming back to him saying what did you do here, I have floods in my basement every time it sprinkles.

Dave Getz: Right. We are concerned about that.

Mr. McConnell: Yes. We are not in a position to require the applicant to improve the situation. We can't compel him to do anything off site. We can't make him improve the situation that you are dealing with.

John Coates: Nor would I want him to.

Mr. Bollenbach: However, if there is a need and the applicant offers...

Mr. McConnell: Right.

Mr. Bollenbach: I wish we had someone from DPW here tonight that could enlighten us on that particular issue. Maybe, it could be relieved in some easy way. I don't know enough about it.

Mr. Showalter: John, what I was looking to say to my fellow Board members was that maybe the Board could recommend to the Commissioner of DPW and to the Engineering Department that maybe they go out and take a look at Little Brooklyn Road and do a little ditching work to help correct the problem for the people. That is what we are looking out for.

John Coates: They did ditch.

Mr. Showalter: It has to be done somewhat frequently.

John Coates: Unfortunately, when they did expand and made that ditch across the road larger to hold more water, they also made the bottom of the ditch a foot below the invert of the pipes that going underneath the driveways. When the water did run out, all we were left with was stag nit ponds of water. I don't need that.

Mr. Showalter: Ben is not here tonight. But, they are looking at improving drainage throughout the Town. We could bring that up.

Mr. McConnell: That is an issue separate and apart from this application on this piece of property.

John Coates: Right. I have another question. The houses will not be any closer than how close to the black dirt?

Dave Getz: I don't have a line on the plan that is specifically labeled black dirt. What was delineated was the Federal wetlands. That was done based on soil types and vegetation. The closest part of the houses shown is about 85 feet on the one lot and about 85 feet on both lots.

John Coates: That is from the back of the houses.

Dave Getz: Right.

John Coates: In fact, if they put a drain around, they won't be digging into any black dirt.

Dave Getz: Correct.

John Coates: Thank you.

Jackie Coates: In discussing this with my neighbors, several of them were not able to come tonight. We all have the same concerns. I have lived on Little Brooklyn Road for 30 years. All of the old people have died including my mom. There are all new young families living there now. If you drive down that street any time of the day, there are walkers, bikers, and kids out in the road playing. Any increase in traffic has a negative impact. 3 houses will bring in 6 or 8 cars. There will be more traffic.

Mr. McConnell: It would be 2 new houses.

Jackie Coates: Ok. But, it would still be 6 or 7 more cars. I have 5 cars at my house. This will increase the traffic. That is not why we want to be in Warwick. It is not why we want to be on Little Brooklyn Road. We have spent a lot of time and effort on making our homes the way we wanted it. They are willing to accept change, but they want it to be a change for the better not a change that is going to wilt the quality of life.

Mr. Singer: The applicant has the right to develop his property according to the Code. That is what he is doing.

Jackie Coates: I understand that. But, he is bringing in a negative that most people are not looking at anything positive. We hope you take our concerns into consideration.

Mr. Singer: Is there anyone else wishing to address the Giovannoli subdivision?

Donna Cote: Is this exact section zoned agricultural?

Dave Getz: It is in the AI zone.

Donna Cote: Are there any zoning changes involved with this because they are putting more houses on?

Zen Wojcik: You could have a residence in the AI zone.

Donna Cote: When you read the purpose of zoning, there is a lot in here that has nothing to do with Codes. It is your job to enforce the code, which are as follow: Reduce traffic congestion, Protect and enhance the rural character and quality of life in the Town, and Preserve as many of the operating farms as possible.

Mr. Singer: That is the purpose of zoning. We are not making the Zoning Code.

Donna Cote: That seems to be all that you care about of what the codes are. Here, there is more. This is not just about codes. It is about where we live in the Town of Warwick.

Mr. McConnell: You do understand that we all live in the Town of Warwick. We are not strangers that come in on a Wednesday from Queens.

Donna Cote: I know that.

Mr. McConnell: The people of Warwick voted on a Zoning Code. As residents of Warwick, we have volunteered to come and make sure that applicants adhere to that Zoning Code.

Mr. Singer: What Dennis is telling you is that we are just like you. We feel for what you are saying. We understand your situation. Our job is to enforce the code. This applicant has the right to put 2 houses there.

John Coates: Milton brought up the subject about the notification on certify mail. Is that done 5 days prior to the meeting?

Mr. Singer: They are required to mail the notices 5 days prior to the meeting.

John Coates: On my notices, it says it was mailed out on 7/12/08.

Connie Sardo: No. I have the certifications that are stamped by the post office that says they were mailed out Tuesday, July 8, 2008.

John Coates: Were they mailed from Warwick?

Dave Getz: It is done through the online postal service. The receipts show 7/8/08. The post marks, I don't know the reason, it says Birmingham Alabama.

Mr. Singer: The bottom line is that you are here.

John Coates: But, it has to be mailed 5 days prior to it.

Connie Sardo: Sir, the agenda is also posted on the Town's website. The application in the beginning was posted on the website. The Legal Notice was also advertised in the Warwick Valley Dispatch.

John Coates: Ok.

Mr. Singer: Is there anyone else wishing to address the Giovannoli subdivision?

Kevin Cote: I am handing you a petition that I would like to have on record. These are some of the people on Little Brooklyn Road that we just got together kind of hastily because of the short period of time that we were notified of the public hearing. These are only some of the people. We were only able to get these signatures in the last couple of days. I would like to have it on public record.

Mr. Singer: This will be a matter of the record.

Kevin Cote: Ok. My question about the maintenance of the ditches to prevent the flooding of the fields that was never addressed before.

Mr. Kowal: Where is the nearest commission ditch from where your property is to the nearest commission ditch?

Kevin Cote: What do you mean?

Mr. Kowal: The commission ditch is the commission that was made in the 1930's when they dug the main drainage channels. They are maintained by the gentleman that was here before, Paul Ruszkiewicz. He is in charge of the Walkkill Valley Drainage Association. The commission ditch is like a right-of-way in the water. Where is that in relation to your property?

Kevin Cote: Looking at the map, my property is located here, which is SBL # 12-3-31. Right outside of SBL # 12-3-30 it is between SBL # 12-4-58 and SBL # 12-3-30 is the Eurich ditch.

Mr. Kowal: Your black dirt should be as it is designed by the Drainage Commission should be draining towards the Eurich ditch.

Kevin Cote: It is draining down through his property, then it crosses and goes out to the Eurich ditch one field up from C.R. #1. It gets to the end of my field, it then stops. Those ditches have not been maintained. Who is responsible for enforcing the maintenance of the ditches so that my farmland doesn't flood?

Mr. Kowal: If the water goes through Mr. Giovannoli's property towards the commission ditch, perhaps he would let you clean that out.

Kevin Cote: That is not my property. Why should I be responsible for cleaning someone else's ditch?

Mr. Kowal: If somebody chooses not to dig a ditch, you could go in there and dig it, if he lets you on there. That would be considered neighborly.

Mr. Showalter: Maybe, you guys could get together on the drainage issue problem. That might be the neighborly thing to do.

Marco Giovannoli: I don't have a problem with that.

Mr. Singer: Mr. Giovannoli had just said he would not have a problem with that.

Kevin Cote: I would like to address that drainage problem on Little Brooklyn Road. Water goes along both sides of my garage, through my garage, through my carport, and around my garage. It goes past my well. My well is located under my front steps of my house. It then drains down onto the area where the septic is. If you go behind my garage, you could see all the gravel that was washed down the hill. That has to be addressed. Otherwise, we will be washing the septic system out, into my pond, onto the black dirt, into the ditch. I don't know if you are aware of that. I just wanted to make you aware of that.

Dave Getz: We show a proposed swale to be built uphill of the new septic system. That will intercept that runoff.

Kevin Cote: Which way would the water run? Will it run onto my property?

Dave Getz: It would go back to the same direction that it is going now, which is partly onto your property.

Zen Wojcik: Dave, you don't have a ditch there.

Kevin Cote: Will we get verification of where the black dirt starts and ends?

Zen Wojcik: I don't see the point of it. We had it delineated by their professional. We had our professionals look at it.

Mr. Bollenbach: It is not a delineation of the black dirt. That is one thing you are mistaken.

Zen Wojcik: It is a wetland area.

Mr. Bollenbach: It is the delineation of the ACOE wetland. It is Federally regulated wetland. It is not necessarily the limits of the black dirt. That is not what that line is.

Mr. Singer: Mr. Cote, we will consider everything that you have said.

Kevin Cote: Will this public hearing be adjourned to another date so that we could have another public hearing on it?

Mr. Singer: It depends on what the Board decides. Thank you for your input.

Kevin Cote: Just let the record show that I am not done with this. Thank you.

Milton Mesirow: I was wondering about the tree line. There are woods behind the property. Will that be leveled?

Dave Getz: The only disturbance shown within the tree line and the brush is to get in there to drill the wells and to put a water line from the wells to the house. To construct the houses and the driveways, no trees would need to be removed.

Milton Mesirow: Thank you.

Mr. Singer: Is there anyone else wishing to address the Giovannoli subdivision?

Gwen Schaffer: How does one get a map?

Mr. Singer: You could stop at the Planning office during the day.

Connie Sardo: You will have to fill out a FOIL request form. We don't make copies of that map of that size. We have someone that works at the Town Hall that could make a copy of the map for you. You would deal with this person directly. It will take 5 business days for her to make the copy.

Mr. Singer: You could stop at the office to take a look at the map.

Gwen Schaffer: Thank you.

Mr. Singer: Is there anyone else wishing to address the Giovannoli subdivision? Let the record show no further public comment.

Mr. Showalter makes a motion for the Negative Declaration.

Seconded by Mr. McConnell. The following Resolution was carried 4-Ayes.

617.12(b)

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

**Name of Action:** Giovannoli Subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed three lot subdivision, Town of Warwick, Orange County, New York, and

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

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 1/8/07, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

Mr. McConnell: John, what is the period of time that people could submit written comments? Does the public hearing need to remain open in order for us to take written comments?

Mr. Bollenbach: No. It is just based upon the record of what has been submitted to date. That is only under SEQR where there is additional time for people to submit written comment. That would be up to the Board's discretion.

Mr. McConnell: Mr. Chairman, given that as we have heard that their notices were not as timely delivered as to what we would have liked, I think it would be appropriate for people who could not make it to the public hearing tonight to submit written comments for our considerations.

Mr. Singer: How many days?

Mr. McConnell: John, does that need to be published?

Mr. Bollenbach: No.

Mr. McConnell: I think that an additional 14 days would cure any sort of disadvantage for people who got it late.

Mr. Singer: Why don't you put it in a form of a motion to close the public hearing with the option of the public giving us written notice in 14 days.

**Mr. McConnell makes a motion to close the public hearing with the written comment period open 14-days until 7/30/08.**

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

Mr. McConnell: To the public, what we have just done was left open a period of time that people could submit comments in writing. We closed the public hearing in the sense of a meeting like this. Anyone that you know of that wasn't able to attend tonight, know has an additional 14 days to submit comments/concerns in writing. Connie, does that go to you?

Connie Sardo: Correct.

Mr. McConnell: You would send those comments to the Town Hall. We will distribute those and review them. Anyone who has been here tonight could put their comments into writing. We will take those also into consideration.

Dave Getz: Thank you.

Marco Giovannoli: Thank you.

**PUBLIC HEARING OF Gregory Galbicka and Kelly Fowler**

Application for Final Approval of a proposed 2-Lot subdivision, entitled, “*Millennium Pipeline Company, LLC., with National Park Service*”, 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, 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 an Unlisted Action.

Representing the applicant: Kirk Rother, Engineer.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Millennium Pipeline Company, LLC., with National Park Service.

Mr. Singer: Thank you.

The following review comments submitted by Tectonic:

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

**BEFORE FINAL APPROVAL:**

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

The following comment submitted by the Conservation Board, dated 7/16/08:

Millennium/NPS – CB has no comments.

The following comment submitted by the ARB:

Millennium/NPS – None submitted.

Comment #1: Board to discuss SEQR.

Mr. McConnell: The following SEQR comment has been prepared by Mr. Ted Fink, dated 7/16/08: “This is an Unlisted Action and there are no other Involved Agencies. A draft Lead Agency resolution has been prepared for the Board’s consideration. Since this action involves a land transfer for preservation purposes and does not involve construction activities, a Negative declaration is appropriate. One has been drafted for the Board’s consideration.”

Comment #2: Applicant to discuss project.

Kirk Rother: The application before the Board is for a proposed 2-lot subdivision. It is situated on approximately 38.5 acres of land. It is owned by Mr. Galbicka and Ms. Fowler. This parcel lies on the western side of Lakes of Lakes Road within the CO zone. There is an existing single-family residence on the parcel. As part of the Millennium Pipeline project within the Town of Warwick, they had the need to widen an existing easement that crosses the Appalachian Trail. In doing so, the National Park Service has asked that they grant an exchange with a wider easement of the parcel of land that the National Park Service deems would be desirable to have it adjacent to the Appalachian Trail system. The land transfer would involve 6.74 acres of land to the National Park Service of the United States of America. We would be leaving the existing single family residence on the balance of 31.7 acres.

**BEFORE FINAL APPROVAL:**

Comment #3: Complete metes & bounds survey of proposed lots.

Kirk Rother: Will do.

Comment #4: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.

Kirk Rother: Ok.

Comment #5: Pay outstanding review fees.

Kirk Rother: Yes.

Mr. Singer: 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 Gregory Galbicka and Kelly Fowler application, please rise and state your name for the record.

Vanessa Rivera: I need this explained to me better than what I see on the map. This is the first that I am hearing about this. I have been aware of the Millennium Pipeline and the portion of it that involved Penaluna and Lakes Road. Is it going onto Ziggy Court? Or, is it the way I see it on here on the easement that is adjacent to our property?

Kirk Rother: It actually doesn't involve the physical pipeline at all. The pipeline is removed from this particular property. It actually lies to the south of this property by about several hundred to one thousand feet. The pipeline does cross the Appalachian Trail, which runs along the top of Mount Peter. The National Park Service owns the Application Trail. There is a pipeline through there underneath the trail now. But, because Millennium needs a wider easement to accommodate this new pipe, which is a larger pipe, the Park Service is saying ok, we will let you have a wider easement, but what would we get in exchange for it? They gave Millennium a list of desirable properties that they would like to include in the overall Parks system. There were about 10 properties on the list. This particular property was #2 on the list. Millennium was able to enter into a contract with Mr. Galbicka and Ms. Fowler to take 6.7 acres off the entire 38-acre parcel. This piece of land will be given to the National Park Service. There is no pipe proposed here. It doesn't involve changing the route of the pipeline.

Mr. McConnell: Kirk, would it be appropriate to say that this piece of land is to compensate for something over here?

Kirk Rother: That is exactly what it is. In order for Millennium to get this wider easement, there are two mechanisms. It has to be an act of Congress or a like kind exchange. This is the like kind exchange.

Vanessa Rivera: Is this the easement that we are discussing?

Kirk Rother: This is just the frontage that this parcel has on Lakes Road. The driveway comes up through here to Mr. Galbicka and Ms. Fowler's house.

Vanessa Rivera: Will there be no change to this portion over here on the map?

Kirk Rother: There will be no physical change to this property at all.

Mr. Singer: There will be no building done on this property.

Vanessa Rivera: That was what I was trying to understand. I couldn't tell from the map. Ok.

Kirk Rother: We are taking this triangle which is a little less than 7 acres and conveying it to the USA.

Mr. Showalter: Nothing will be happening to you.

Vanessa Rivera: Ok. Thank you.

Mr. Singer: Is there anyone else wishing to address the Gregory Galbicka and Kelly Fowler application. Let the record show no further public comment.

Mr. Showalter makes a motion for the Negative Declaration.

Seconded by Mr. McConnell. The following Resolution was carried 4-Ayes.

617.12(b)

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

**Name of Action:** Millennium/National Park Service Subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed two lot subdivision, Town of Warwick, Orange County, New York, and

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

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 5/28/08, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Mr. McConnell makes a motion on the Gregory Galbicka and Kelly Fowler application, granting final approval 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, subject to the following conditions:

1. Complete metes & bounds survey of proposed lots.
2. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
3. Pay Outstanding Review Fees.

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

Kirk Rother: Thank you.

**PUBLIC HEARING OF Kirk Rother**

Application for Preliminary Approval of a proposed 2-Lot cluster 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, 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 an Unlisted Action.

Representing the applicant: Kirk Rother, Engineer and Applicant.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Lands of Kirk Rother public hearing.

Mr. Singer: Thank you.

The following review comments submitted by Tectonic:

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

**YIELD PLAN (LAST REV. 6/23/08):**

3. No further comment. Board to consider Yield Plan.

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

4. Remove redundant Survey Notes from sheet 1.
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. Stabilized percolation rates are not listed on the Soil Test Results & Septic System Design matrix.
7. If the existing driveway is to function as a temporary access, provide a temporary stabilized construction entrance on the new driveway where it intersects the existing driveway to be used until the new driveway entrance onto CR 1 is constructed.
8. It appears that swales will be constructed along the driveway between Sta. 6+00 and 8+50. Show the swales on the typical section. Indicate whether they are grassed or rip-rap lined. Will the swales require temporary or permanent erosion control measures?
9. Provide the declaration and the recording information on the plan for Common Driveway Use and Maintenance Agreement Notes and Open Space Conservation Notes.
10. 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.
11. Provide a copy of the submitted NOI.
12. Applicant to provide 9-1-1 addressing.
13. Pay Parkland Fees.
14. Pay Outstanding Review Fees.

The following comment submitted by the Conservation Board, dated 7/16/08:

Kirk Rother – CB has no comments.

The following comment submitted by the ARB:

Kirk Rother – None submitted.

Comment #1: Board to discuss SEQR.

Mr. McConnell: The following comment has been prepared by Mr. Ted Fink, dated 7/16/08: “The Planning Board is acting as Lead Agency on this application. The proposed Subdivision Plans should have a no further subdivision note placed on them since this has been proposed as a cluster subdivision. No other outstanding issue exists with regard to SEQR. However, the Orange County Planning Department has issued binding comments on the subdivision application related to a recommendation for a conservation easement on the open space. The Planning Board, unless it requires the applicant to provide further information to address the County comment, must act on this application with a supermajority vote to override the County’s recommendation. In any case, the Planning Board must file a report with the County within 30 days of action. I have prepared a Draft Negative declaration and attached it for the Board’s consideration. The Negative Declaration is worded that preservation of the open space shall be assured to the Planning Board Attorney’s specifications, as reflected in the Zoning Law.”

Mr. Singer: Kirk, explain to me what the County wants?

Mr. Bollenbach: I will go over that quickly. The County recommended a conservation easement. The Town does not do that. We do that only for PDR. If there is an open space note on the map, that this area shall not be further subdivided or that it should only be used certain purposes, it is done in a declaration format. It is upon both property owners each lot owner of lot 1 or lot 2 could enforce. The Town also has an enforcement right to make sure that it is not encroached upon. I feel very confident that we have adequate assurances.

Comment #2: Applicant to discuss project.

Kirk Rother: The application before the Board is for a proposed 2-lot cluster subdivision. It is situated on approximately 6.6 acres of land. It lies in the RU zone of the Town of Warwick. There is an existing single-family residence on the property. We are proposing a 2<sup>nd</sup> lot which would contain majority of the parcel. We would be leaving approximately 51.5% as open space with the 2<sup>nd</sup> lot to be used for a new single-family residence for myself.

**YIELD PLAN (LAST REV. 6/23/08):**

Comment #3: No further comment. Board to consider Yield Plan.

Mr. McConnell: I am ok with the yield plan.

Mr. Kowal: I think we have reached a consensus on the yield plan.

Mr. Bollenbach: Let the record show there was a consensus by the Board on the yield plan.

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

Comment #4: Remove redundant Survey Notes from sheet 1.

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.

Mr. Bollenbach: I will discuss that on behalf of the applicant. Since this is a cluster subdivision, the Planning Board could waive any bulk requirements. Under the cluster provisions, the minimum lot width would be 25 feet not 50 feet. It is even shown on flag lot criteria. If this had been a conventional subdivision, then yes that would be correct, it would be a flag lot entering onto a County Highway. That is not the case. Comment #5 could be stricken.

Mr. Singer: We could leave it as the plan is submitted?

Mr. Bollenbach: Correct. If the Board would like to decrease it to 25 feet, that would be your option. That is the minimum.

Mr. McConnell: I thought we had discussed that at the work session that we were going to increase it to 25 feet.

Kirk Rother: At the work session, we talked about increasing it to in excess of 50 feet.

Mr. McConnell: Agreed.

Kirk Rother: I think that Mr. Bollenbach is saying that is not necessary.

Mr. McConnell: Is it desirable?

Mr. Bollenbach: That would be at 50 feet. If you are satisfied with the 50 feet...

Kirk Rother: No. I would rather leave it at the 25 feet.

Mr. Bollenbach: Ok. 25 feet.

Zen Wojcik: I think it is important to know that Kirk is proposing a common driveway. Half of it would be on this property and the other half on the other property. That will have a 50-foot R.O.W.

Mr. McConnell: Ok.

Kirk Rother: So the difference that we are talking about is just a line on the map. In reality, everything will be exactly the same. I am perfectly fine with what John has found.

Comment #6: Stabilized percolation rates are not listed on the Soil Test Results & Septic System Design matrix.

Kirk Rother: We will add them.

Comment #7: If the existing driveway is to function as a temporary access, provide a temporary stabilized construction entrance on the new driveway where it intersects the existing driveway to be used until the new driveway entrance onto CR 1 is constructed.

Kirk Rother: Will do.

Comment #8: It appears that swales will be constructed along the driveway between Sta. 6+00 and 8+50. Show the swales on the typical section. Indicate whether they are grassed or rip-rap lined. Will the swales require temporary or permanent erosion control measures?

Kirk Rother: Right. We will add the swale details and applicable erosion control.

Mr. Bollenbach: Would the swales require temporary or permanent?

Kirk Rother: They will be grass line swales. It will be temporary erosion control measures. Once the grass is established, the erosion control measures could be removed.

Mr. Bollenbach: Zen, do you want to strike that last sentence on comment #8?

Zen Wojcik: Just make it to show that it will be temporary erosion control measures in the swales.

Mr. Bollenbach: Ok. We will say; provide temporary.

Comment #9: Provide the declaration and the recording information on the plan for Common Driveway Use and Maintenance Agreement Notes and Open Space Conservation Notes.

Kirk Rother: Ok.

Comment #10: 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 #11: Provide a copy of the submitted NOI.

Kirk Rother: Yes.

Comment #12: Applicant to provide 9-1-1 addressing.

Kirk Rother: Will do.

Comment #13: Pay Parkland Fees.

Kirk Rother: Yes.

Comment #14: Pay Outstanding Review Fees.

Kirk Rother: Yes.

Mr. Bollenbach: Let us add to comment #9, no further subdivision note. That was one of the County's comments. I include that in all cluster subdivision notes anyhow. Let us just add that so that it doesn't get missed.

Mr. Singer: 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 Lands of Kirk Rother application, please rise and state your name for the record.

Wayne Pokstis: Part of my property borders Mr. Rother's property. My main concern is that where this house is going, I spoke to him earlier that he assured me that would be the only house going there. I just want to make sure that there would be no development going up there at a later date. Is that correct?

Mr. Bollenbach: That was just a comment that I had in comment #9. There would be a no further subdivision note placed. That will preclude any additional dwellings. There will be only 2 lots in this subdivision. One lot will be existing and the other will be proposed.

Wayne Pokstis: The reason I bought my house was because the realtor told me that they could not build around here. If it turns into a development, it forces you to move on.

Mr. Singer: You picked the wrong realtor.

Wayne Pokstis: I picked the most common one in Town here. Ok. Thank you.

Mr. Singer: Is there anyone else wishing to address the Lands of Kirk Rother public hearing? Let the record show no further public comment.

Mr. Showalter makes a motion for the Negative Declaration.

Seconded by Mr. McConnell. The following Resolution was carried 4-Ayes.

617.12(b)

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

**Name of Action:** Rother Subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed two lot subdivision, Town of Warwick, Orange County, New York, and

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

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 4/30/08, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Mr. Kowal makes a motion on the Kirk Rother application, granting , preliminary approval for a proposed 2-Lot cluster 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, 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 an Unlisted Action.

Seconded by Mr. McConnell. Motion carried; 4-Ayes.

Kirk Rother: Mr. Chairman, this project is a major subdivision because the parent parcel was previously subdivided. With a major subdivision, the Board has the option of having a final public hearing for final approval. I ask that you waive the final public hearing and granting a conditional final approval.

Mr. Showalter makes a motion to waive the Final Public Hearing.

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

Mr. Kowal makes a motion on the Kirk Rother application, granting final approval for a proposed 2-Lot cluster 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, 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 an Unlisted Action. Subject to the following Conditions:

1. Remove redundant Survey Notes from sheet 1.
2. Proposed Lot #1 is a flag lot. Flag lots are not permitted with frontage on a county highway (County Rt. 1A). Applicant to discuss.
3. Stabilized percolation rates are not listed on the Soil Test Results & Septic System Design matrix.
4. If the existing driveway is to function as a temporary access, provide a temporary stabilized construction entrance on the new driveway where it intersects the existing driveway to be used until the new driveway entrance onto CR 1 is constructed.

5. It appears that swales will be constructed along the driveway between Sta. 6+00 and 8+50. Show the swales on the typical section. Indicate whether they are grassed or rip-rap lined. Provide temporary erosion control measures for the swales to Town Engineer's specifications?
6. Provide the Declaration and the Recording Information on the plan for Common Driveway Use and Maintenance Agreement Notes and Open Space Conservation Notes, and No Further Subdivision Note.
7. 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.
8. Provide a copy of the submitted NOI.
9. Applicant to provide 9-1-1 addressing.
10. Pay Parkland Fees.
11. Pay Outstanding Review Fees.

Seconded by Mr. McConnell. Motion carried; 4-Ayes.

Kirk Rother: Thank you.

**Review of Submitted Maps:*****Warwick Water Corp./Brock Majewski/Evan Pankin***

Application for sketch plat review of a proposed 3-Lot (Minor) subdivision and application for site plan approval and special use Permit for the construction and use of commercial warehouse facilities, situated on tax parcel S 35 B 1 L 21; project located on the southern side of Lake Station Road 800 feet west of Kings Highway, in the OI zone, of the Town of Warwick. Previously discussed at the 5/21/08 Planning Board meeting.

Representing the applicant: Keith Woodruff, Pietrzak & Pfau Engineering.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Provide an approval block on the Cover Sheet.
4. Revise Site Restriction Note #5. Separate the note from the others and add “on Lots 1, 2, & 3” before the colon.
5. The applicant has been urged to expand the sewer district. Show a theoretical connection from a warehouse to the nearest sewer manhole. Submit a petition to the Town Board for expansion of the sewer district to the Planning Board Attorney’s specifications.
6. Pave commercial driveway for 50 feet from the edge of roadway. Provide a cross-section on the plans.
7. Show the location of fire lanes and provide a letter from the Warwick Fire District that the access is sufficient.
8. Per Special Condition 97, provide a plan for screening landscaping.
9. Add the following notes:
  - a. “No site preparation or construction, including utility connections, shall commence before a Driveway Permit has been secured from the Town of Warwick Department of Public Works.”
  - b. “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.”
  - c. “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.”
  - d. (On all sheets with stormwater management facility details© “To prevent infiltration (per AQ-O District use restrictions), and to be consistent with NYSDEC design guidance, a liner of either 6 to 12 inches of clay soil, 30 mm poly-liner, or bentonite shall be installed at all stormwater management basins.”
10. List property owners within 300 feet and if a farm is located within 500 feet, must provide copy of their notification, Ag Data statement, or maps.

**SWPPP:**

11. Provide a standard detail and profile per the design manual for the proposed detention pond. Place this note at the detail: "Woody vegetation may not be planted or allowed to grow within 15 feet of the toe of embankment and 25 feet from the principal spillway structure."
12. The profile view of the proposed detention pond should include extreme flood, overbank flood, channel protection, and water quality elevations corresponding to the SWPPP.
13. At the stormwater management pond, indicate a pond buffer extending out 25 feet from the maximum water surface elevation.
14. Prepare a Landscaping Plan for the stormwater pond and buffer area consistent with the design manual.

**BEFORE FINAL APPROVAL:**

15. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
16. Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes.
17. Applicant to provide 9-1-1 addressing.
18. Pay performance bond (stormwater management facilities, erosion control), a 3-year term landscape bond (screening plantings, hydric plantings at stormwater management facilities) and construction inspection fee.
19. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 7/16/08:

Warwick Water Corp./Brock Majewski/Evan Pankin – The CB has no comments.

The following comment submitted by the ARB:

Warwick Water Corp./ Brock Majewski/Evan Pankin – None submitted.

Comment #1: Board to discuss SEQR.

Mr. McConnell: The following SEQR comment has been prepared by Mr. Ted Fink, dated 7/16/08: "We had been waiting for the applicant to provide us with a unified EAF document addressing all of the related SEQR actions including the proposed Subdivision, Site Plan and Special Use Permit. Previously, the applicant had treated the subdivision as separate from the proposed Site Plan/Special Permit, which would have been contrary to the SEQR regulations (i.e. impermissible segmentation). The applicant has now provided a Part 1 EAF addressing all three related actions. I have prepared a Lead Agency resolution for the Board's consideration. There will be a Part 2 and if necessary Part 3 EAF that will also need to be prepared. The Planning Board's policy has been for the applicant or applicant's professionals to prepare this document in draft form. He applicant should be asked to undertake the preparation of this document."

Keith Woodruff: I have sent the revised EAF to Ted Fink on 6/23/08. I am unaware if he was able to receive that or not. I also sent a copy to Zen and to the Planning Board.

Connie Sardo: We did receive a revised EAF. Ted and Zen have a copy.

Zen Wojcik: I am looking at the date of this. The date of it says July 7, 2008. It could be possible that Ted did not get it at the time he wrote this.

Keith Woodruff: Ok.

Mr. Showalter makes a motion for Lead Agency.

Seconded by Mr. McConnell. The following Resolution was carried; 4-Ayes.

617.6

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

Name of Action: Lands of Pankin/WWC-Majewski

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision/Site Plan application by Evan Pankin, Brock Majewski & Warwick Water Corporation for a  $\pm$  16.66 acre parcel of land located at Lake Station Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 6/20/08 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.

Keith Woodruff: Currently, a 3-lot subdivision of which we are separating the existing wells which is being used for the Kings Estate as a potable water supply. The remaining land of lot #1 will be used as a warehouse strictly for the warehousing of industrial equipment. Since the Board has last seen the project, we have made revisions to lot #3, which now have revised it to a contiguous area where before it was segmented. We have also added on the subdivision plat a proposed sewer easement for the connection of lot #1 to the sewer district of which is currently located on the intersection of Shepard Road and Grissom Street.

Mr. Singer: What kind of industrial equipment?

Keith Woodruff: That, I do not know.

Comment #3: Provide an approval block on the Cover Sheet.

Keith Woodruff: Will do.

Comment #4: Revise Site Restriction Note #5. Separate the note from the others and add "on Lots 1, 2, & 3" before the colon.

Keith Woodruff: Will do.

Comment #5: The applicant has been urged to expand the sewer district. Show a theoretical connection from a warehouse to the nearest sewer manhole. Submit a petition to the Town Board for expansion of the sewer district to the Planning Board Attorney's specifications.

Keith Woodruff: Will do.

Mr. Bollenbach: Not as a theoretical. You will need to show a connection. It will be hooked up.

Keith Woodruff: Correct. We just wanted to insure adequate capacity before we showed any kind of proposed location. Since then, I have been in contact with Russell who is the person in charge of the Sewer District who said there is capacity. We will be going forward with that.

Mr. Bollenbach: Good.

Comment #6: Pave commercial driveway for 50 feet from the edge of roadway. Provide a cross-section on the plans.

Keith Woodruff: Will do.

Comment #7: Show the location of fire lanes and provide a letter from the Warwick Fire District that the access is sufficient.

Keith Woodruff: Will do.

Comment #8: Per Special Condition 97, provide a plan for screening landscaping.

Keith Woodruff: Will do.

Comment #9: Add the following notes:

- a. “No site preparation or construction, including utility connections, shall commence before a Driveway Permit has been secured from the Town of Warwick Department of Public Works.”

Keith Woodruff: Will do.

- b. “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.”

Keith Woodruff: Will do.

- c. “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.”

Keith Woodruff: Will do.

- d. (On all sheets with stormwater management facility details☺ “To prevent infiltration (per AQ-O District use restrictions), and to be consistent with NYSDEC design guidance, a liner of either 6 to 12 inches of clay soil, 30 mm poly-liner, or bentonite shall be installed at all stormwater management basins.”

Keith Woodruff: Will do.

Comment #10: List property owners within 300 feet and if a farm is located within 500 feet, must provide copy of their notification, Ag Data statement, or maps.

Keith Woodruff: Will do.

**SWPPP:**

Comment #11: Provide a standard detail and profile per the design manual for the proposed detention pond. Place this note at the detail: “Woody vegetation may not be planted or allowed to grow within 15 feet of the toe of embankment and 25 feet from the principal spillway structure.”

Keith Woodruff: Will do.

Comment #12: The profile view of the proposed detention pond should include extreme flood, overbank flood, channel protection, and water quality elevations corresponding to the SWPPP.

Keith Woodruff: Will do.

Comment #13: At the stormwater management pond, indicate a pond buffer extending out 25 feet from the maximum water surface elevation.

Keith Woodruff: Will do.

Comment #14: Prepare a Landscaping Plan for the stormwater pond and buffer area consistent with the design manual.

Keith Woodruff: Will do.

**BEFORE FINAL APPROVAL:**

Comment #15: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.

Keith Woodruff: Will do.

Comment #16: Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes.

Keith Woodruff: Will do.

Mr. Bollenbach: And, sewer line easement.

Keith Woodruff: Ok.

Comment #17: Applicant to provide 9-1-1 addressing.

Keith Woodruff: Will do.

Comment #18: Pay performance bond (stormwater management facilities, erosion control), a 3-year term landscape bond (screening plantings, hydric plantings at stormwater management facilities) and construction inspection fee.

Keith Woodruff: Will do.

Comment #19: Pay outstanding review fees.

Keith Woodruff: No problem.

Mr. McConnell: John, is there a bond on the sewer connection?

Mr. Bollenbach: That will be done through the Town Board when they accept the Sewer District Expansion.

Mr. McConnell: Ok.

Mr. Bollenbach: You will need to update your Ag and Aquifer notes. You have the old notes on the plan.

Keith Woodruff: Ok. We request to be set for a public hearing.

**Mr. Showalter makes a motion to set Warwick Water Corp./Brock Majewski/Evan Pankin application for a Final Public Hearing and Site Plan/Special Use Permit Public Hearing at the next available agenda.**

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

Keith Woodruff: Thank you.

***Gary Randall Guesthouse***

Application for site plan approval and special use permit for the construction and use of a guesthouse located within the Ridgeline Overlay District, situated on tax parcel S 19 B 1 L 47.2; project located on the western side of Route 94 driveway is 500+ feet north of Minturn Road, in the MT zone, of the Town of Warwick. Previously discussed at the 6/4/08 Planning Board meeting.

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

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. The configuration of SBL 19-1-53 is inconsistent with the lot lines altered in the Graessle-Randall Lot Line Change application, approved by the Board February 15, 2006. Revise.
4. Within Theoretical Lot B, show a 10,000 sf buildable area per §164-46J(95).
5. The proposed guest house will be located in the Ridgeline Overlay District. The proposed building height exceeds 25 feet. A Sight Line Profile has been prepared showing that a 35 foot tall structure would not be visible from NYS Rts 94 & 17A, a scenic road. Board and applicant to discuss building height.
6. Label Clearview Lane on the Sight Line Location Plan and show the approximate location of the existing dwelling on SBL 19-1-30.12.
7. Place the full text of Special Condition #11 (§164-46J(11)) on the plan.
8. Since the existing driveway exceeds 1000 feet in length, show the location of fire safety markers.
9. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Agricultural Protection Notes.
10. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 7/16/08:

Gary Randall Guesthouse – CB has no comments.

The following comment submitted by the ARB:

Gary Randall Guesthouse – None submitted.

Comment #1: Board to discuss SEQR.

Mr. McConnell: The following SEQR comment has been prepared by Mr. Ted Fink, dated 7/16/08: “ The Planning Board has already declared itself Lead Agency for this Unlisted Action using a Short EAF. We also asked the applicant to provide a Visual EAF Addenda and Viewshed Analysis since the site is located within the Ridgeline Overlay District. The applicant has complied with this request. At this time, issuance of a Negative Declaration is

appropriate unless testimony at the Public Hearing reveals any other potential SEQR issue that was not addressed.”

Comment #2: Applicant to discuss project.

Comment #3: The configuration of SBL 19-1-53 is inconsistent with the lot lines altered in the Graessle-Randall Lot Line Change application, approved by the Board February 15, 2006. Revise.

Dave Getz: Will do.

Comment #4: Within Theoretical Lot B, show a 10,000 sf buildable area per §164-46J(95).

Dave Getz: Ok.

Comment #5: The proposed guesthouse will be located in the Ridgeline Overlay District. The proposed building height exceeds 25 feet. A Sight Line Profile has been prepared showing that a 35 foot tall structure would not be visible from NYS Rts 94 & 17A, a scenic road. Board and applicant to discuss building height.

Dave Getz: To play it safe, we show it as a 35-foot home in our profile. Gary, I guess your actual height is what?

Gary Randall: It is 29 feet in height.

Dave Getz: We want to be conservative. We feel that the existing vegetation and off-site carries screening the area entirely. If you drive by on Route 94, you would have no idea where he is proposing the home.

Mr. Singer: Are you saying that the 35-foot height would not be seen from the road?

Dave Getz: Yes. He even plans to build something even shorter than that.

Mr. Bollenbach: Go for the 35 feet. We will do that waiver. There are certain map notes that have to be added. We could do that at final.

Mr. McConnell: Haven't we approved the subdivision behind this property?

Mr. Bollenbach: This is the adjoining one. This was a lot line change that came before us previously for his vineyard.

Mr. Singer: Mountain View Estates is behind it.

Mr. McConnell: Ok. Was there any consideration as to whether this building as proposed would be seen from... I guess if it is not approved yet, we don't have to worry about it.

Mr. Bollenbach: No.

Mr. McConnell: Ok.

Comment #6: Label Clearview Lane on the Sight Line Location Plan and show the approximate location of the existing dwelling on SBL 19-1-30.12.

Dave Getz: Ok.

Comment #7: Place the full text of Special Condition #11 (§164-46J(11)) on the plan.

Dave Getz: Ok.

Comment #8: Since the existing driveway exceeds 1000 feet in length, show the location of fire safety markers.

Dave Getz: Ok.

Comment #9: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Agricultural Protection Notes.

Dave Getz: Ok.

Comment #10: Pay outstanding review fees.

Gary Randall: Ok.

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

**Mr. Showalter makes a motion to set the Gary Randall application for a Public Hearing at the next available agenda.**

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

Dave Getz: Thank you.

**Other Considerations:**

1. **Sarbak Subdivision** – Letter from ERS Consultants, dated 6/20/08 addressed to Planning Board in regards to the Sarbak Subdivision – requesting a 6-Month Extension on Final Approval of a proposed 3-Lot subdivision, SBL # 17-1-74.5. Final Approval was granted on, 11/7/07. *The applicant is requesting this extension because Legal Council needs to finalize easement agreements associated with existing and proposed driveways.* The 6-Month Extension becomes effective on, 5/7/08.

Mr. Showalter makes a motion on the Sarbak Subdivision, granting a 6-Month Extension on Final Approval of a proposed 3-Lot subdivision, SBL # 17-1-74.5. Final Approval was granted on, 11/7/07. The 6-Month Extension becomes effective on, 5/7/08.

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

2. **Lands of Mongelluzzo** – Letter from Kirk Rother, P.E., dated 6/24/08 addressed to Planning Board – in regards to the Mongelluzzo Subdivision requesting a 6-Month Extension on Preliminary Approval of a proposed 2-Lot Cluster Subdivision, SBL # 31-2-44.32. Preliminary Approval was granted on 11/21/07. *The applicant is currently in the process of securing DEC Stream Crossing Permit approval.* The 6-Month Extension becomes effective on, 5/21/08.

Mr. McConnell: Is this the one that is located on Entin Terrace?

Mr. Showalter: Yes.

Mr. McConnell makes a motion on the Mongelluzzo Subdivision, granting granted a 6-Month Extension on Preliminary Approval of a proposed 2-Lot Cluster Subdivision, SBL # 31-2-44.32. Preliminary Approval was granted on, 11/21/07. The 1<sup>st</sup> 6-Month Extension becomes effective on, 5/21/08.

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

3. **Meadowbrook Farms/Nop #2** – Letter from Lanc & Tully Engineering, dated 7/9/08 addressed to the Planning Board – in regards to the Meadowbrook Farms/Nop #2 subdivision, SBL # 29-1-65.12 & 63. Preliminary Approval was granted on 8/3/05. *The applicant has currently made some technical changes to the plan and has made a Re-submittal to the Planning Board for the 7/28/08 Work Session to continue going through the final approval process.* The 6<sup>th</sup> 6-Month Extension becomes effective on, 8/3/08.

Mr. McConnell: When was this re-submittal made?

Connie Sardo: It was just made recently for the July 28<sup>th</sup> workshop. They also had in their submittal a 6-month extension request. That is why I put it on the agenda tonight.

Mr. McConnell: I understand that. What I find a little confusing, I seem to recall at a regular meeting how they needed to do this quickly.

Mr. Bollenbach: Yes.

Mr. McConnell: Here it is now, July.

Mr. Singer: That was at a work session.

Mr. Showalter: No. Dennis is right. That was at a regular meeting.

Mr. McConnell: They were trying to make us feel guilty that we weren't acting in a timely fashion on this.

Mr. Bollenbach: We will bring them in to have a discussion.

Mr. McConnell: Yes. Let us bring them in. I don't care to vote on this one. Unless, John, it would create a problem.

Mr. Bollenbach: No. If you would like further explanation, that is what we will do.

Mr. McConnell: I would like to have further explanation on this matter.

Mr. Showalter: I agree with Dennis.

4. **Vincent Czubak Lot Line Change** – Letter from Dennis Caplicki, Esq., dated 7/15/08 addressed to the Planning Board – in regards to Vincent Czubak Lot Line Change requesting ***“Re-Approval”*** of Final Approval of a proposed lot line change, SBL # S 6 B 1 L 40, 41, 42 and 46.1. Final Approval was granted on, 7/18/07. 6-Month Extension was granted on 1/16/08. *Re-Approval is requested due to finalizing Legal Documents. The applicant is close to finalizing legal documents, but needs some more time.* Re-Approval of Final Approval becomes effective on, 7/16/08, subject to the conditions of final approval granted on, 7/18/07.

Mr. McConnell: I am confused as to why on this matter.

Mr. Bollenbach: What it is, it is for re-approval. When you have final approval it is good for 180-days. Then, you can grant a 6-month extension. That is it. After that time, they have to come in for re-approval.

Connie Sardo: The letter is in your packet.

Mr. McConnell: Now, I get it.

Mr. McConnell makes a motion on the Vincent Czubak application, granting ***“Re-Approval”*** of Final Approval for a proposed lot line change, situated on tax parcels S 6 B 1 L 40, 41, 42, and 46.1; parcels located on the eastern side of Skinners Lane 1730 feet northerly of Pulaski Highway, in the AI zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on 7/18/07. (See attached).

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

5. **Mary Tavalacci** – Planning Board to discuss recommendation to the ZBA.

Mr. Singer: The Planning Board Chairman has strong feelings about this and wants to discuss it further at the work session. We will talk about it at the work session instead of tonight.

6. **Planning Board Minutes of 6/4/08 and 6/18/08** – Planning Board Minutes of 6/4/08 and 6/18/08 for Planning Board Approval.

Mr. McConnell makes a motion to Approve the 6/4/08 and 6/18/08 Planning Board minutes.

Seconded by Mr. Kowal. Motion carried; 4-Ayes.

### **Correspondences:**

1. Letter from Gary & Kathy Randall, dated 5/29/08 addressed to the Planning Board and Received on 6/26/08 – in regards to the Mountain View Estates Subdivision.
2. Letter from Arlene Jacoby, dated 7/4/08 addressed to the Planning Board – in regards to the Thomas Sobiech #2 application.

Connie Sardo: Correspondences # 1 and #2 are in your packets.

### **Privilege Of The Floor For Agenda Items!!**

Mr. Singer: 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. Kowal makes a motion to adjourn the July 16, 2008 Planning Board meeting.**

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