

TOWN OF WARWICK PLANNING BOARD

August 5, 2009

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, August 5, 2009 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

**PUBLIC HEARING OF Leslie and Rose Thomson**

Application for Final Approval of a proposed lot line change, situated on tax parcels S 47 B 1 L 81 and L 82.22; parcels located on the eastern side of Bellvale Lakes Road 2.178 miles north of Iron Forge Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Leslie Thomson, applicant.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Applicant to discuss feasibility of shared driveway.
2. Applicant to discuss project.
3. A 350-foot square is not able to be inscribed within proposed Tax Lot 81. Applicant has requested a waiver.
4. Add note stating: "No site preparation or construction, including utility connections, shall commence before a valid Driveway Permit has been secured from the Town of Warwick Department of Public Works."
5. Provide the deed and the recording information on the map for the lot line change.

**BEFORE FINAL APPROVAL:**

6. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Notes, and Aquifer Protection Overlay Notes.
7. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
8. Applicant to provide 9-1-1 addressing.
9. Pay parkland fees.

10. Pay outstanding review fees.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-21K.(1)	Shape of lots. Waiver from the requirement to inscribe a 350-foot square within proposed lot #2's boundary.

The following comment submitted by the Conservation Board, dated 8/1/09:

Leslie and Rose Thomson - The CB recommends the proposed driveway be attached to the gravel driveway that serves the existing dwelling (with appropriate shared driveway agreement) to minimize land disturbance in front area of lot.

The following comment submitted by the ARB:

Leslie and Rose Thomson – None submitted.

Comment #1: Board to discuss SEQR.

A. Applicant to discuss feasibility of shared driveway.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. We have been reviewing it with using the short EAF. It is an Unlisted Action. The only outstanding issue was whether or not there would be a potential for a shared driveway to reduce the impervious surfaces. I understand the applicant has prepared a plan to indicate that a shared driveway would be feasible. On that basis, I have prepared a draft Negative Declaration for the Board's consideration.

Comment #2: Applicant to discuss project.

Dave Getz: Mr. and Mrs. Thomson own approximately 56 acres. It consists of 2-existing lots. Lot 81, is the small square that is located down along Bellvale Lakes Road. The proposal was to add about 3 acres to that 1-acre lot in order to create a 4-acre lot. They have an existing house on the larger lot. That lot would remain unchanged. That lot would stay over 50 acres. As Ted had mentioned, since our last appearance, we have changed the plan. We changed it so that access to the new house would share the access off Bellvale Lakes Road.

Mr. Singer: How big was that original small lot?

Dave Getz: It was about 1-acre.

Leslie Thomson: I think it was about 1.02 acres.

Mr. Singer: I was wondering why we are calling this a lot line change, which means there were 2 lots originally.

Dave Getz: Yes.

Mr. Singer: Why are we charging them parkland fees?

Dave Getz: We were going to ask about that.

Mr. Singer: I am puzzled about that.

Mr. Bollenbach: Parkland fees are just a tagalong. There are no additional lots created. The parkland fee would be zero. Carl, thank you for bringing that up.

Mr. Singer: I don't see the need for it to be on there.

Mr. Bollenbach: We will strike it.

Mr. Astorino: We will strike comment #9.

Comment #3: A 350-foot square is not able to be inscribed within proposed Tax Lot 81. Applicant has requested a waiver.

Mr. Astorino: Do any Board members have any questions about the waiver? The Board members do not have any comments on comment #3.

Comment #4: Add note stating: "No site preparation or construction, including utility connections, shall commence before a valid Driveway Permit has been secured from the Town of Warwick Department of Public Works."

Dave Getz: That that a new driveway from the road is not proposed, could that comment be stricken?

Mr. Astorino: Yes. It will be an existing driveway. We will strike comment #4.

Comment #5: Provide the deed and the recording information on the map for the lot line change.

Dave Getz: Will do.

**BEFORE FINAL APPROVAL:**

Comment #6: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Notes, and Aquifer Protection Overlay Notes.

Dave Getz: Ok.

Mr. Bollenbach: We will need to add to comment #6. Add to that comment, "and driveway use and maintenance agreement".

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

Dave Getz: Ok.

Comment #8: Applicant to provide 9-1-1 addressing.

Dave Getz: Will do.

Comment #9: Pay parkland fees.

Mr. Astorino: We will strike comment #9.

Comment #10: Pay outstanding review fees.

Dave Getz: Ok.

#### **WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-21K.(1)	Shape of lots. Waiver from the requirement to inscribe a 350-foot square within proposed lot #2's boundary.

Zen Wojcik: Since we are talking about a driveway in its existing location, previously the plan had sight triangles from the previous location of the driveway. Now, it will be moving over. The property south of it, that sight triangle will go over some of that property. What is the nature of that right now? Is there hedgerow, grass, or trees?

Leslie Thomson: There is just lawn there.

Zen Wojcik: It would be up to the Board on whether they would want to have an easement or something.

Mr. Bollenbach: We could add sight triangle to comment #6.

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

Mr. McConnell: Is there the ability to further subdivide this property? It is a large piece. Would that be something they would want to consider?

Mr. Bollenbach: That is not before us at this time. That would be up to the applicant to proceed at some future date.

Mr. McConnell: Would this then be a conforming lot?

Mr. Bollenbach: Yes.

Connie Sardo: Mr. Chairman, we have a comment from the Conservation Board, dated 8/1/09.

Mr. Astorino: The Conservation Board comment was in regards to the proposed driveway. We have discussed that issue.

Mr. Fink: In regards to the Negative Declaration, we will have to make one correction. Under the reasons supporting the determination, item #3 should be stricken. The reason for that is the fact that this is a lot line alteration so the recreational fees would be non-existence.

Mr. Astorino: Ok. We will make that correction.

Mr. Showalter makes a motion for the Negative Declaration.

Seconded by Mr. McConnell.

Mr. McConnell: Mr. Chairman, we have titled this as a re-subdivision. John, doesn't that put it into our purview in terms of further subdivision or is it a miss-titled action?

Mr. Bollenbach: No. A lot line change is a re-subdivision. The subdivision maps would have to be filed again to indicate the boundaries of the new lot lines.

Mr. McConnell: Thank you.

The following Resolution was carried 4-Ayes.

617.12(b)

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

**Name of Action:** Thomson Re-subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed Re-subdivision between two existing lots of record, 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 5/19/09, 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. Astorino: We will need to make motion on the waiver of the 350-foot square rule.

Mr. Showalter makes a motion to waive §137-21K.(1) Shape of lot. Waiver from the requirement to inscribe a 350-foot square within proposed lot #2's boundary.

Seconded Mr. Singer. Motion carried; 4-Ayes.

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

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

Mr. Showalter makes a motion on the Leslie and Rose Thomson application, granting Final Approval for a proposed lot line change, situated on tax parcels S 47 B 1 L 81 and L 82.22; parcels located on the eastern side of Bellvale Lakes Road 2.178 miles north of Iron Forge Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on, August 5, 2009. Approval is granted subject to the following conditions:

1. A 350-foot square is not able to be inscribed within proposed Tax Lot 81. Applicant has requested a waiver.
2. Provide the Deed and the Recording Information on the map for the lot line change.
3. Provide the Declaration and the Recording Information on the plan for Ridgeline Overlay Notes, Agricultural Notes, and Aquifer Protection Overlay Notes and Sight Triangles Notes, and Driveway Use & Maintenance Agreement.
4. Certify Setting of Iron Pins. Surveyor to certify that iron rods have been set at all property corners.
5. Applicant to provide 9-1-1 addressing.
6. Pay Outstanding Review Fees.

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

Dave Getz: Thank you.

Leslie Thomson: Thank you.

**PUBLIC HEARING OF Alan and Maureen Mante**

Application for Preliminary Approval of a proposed 2-Lot (Major) subdivision, situated on tax parcel S 47 B 1 L 78.234; parcel located on the eastern side of Bellvale Lakes Road and 2,725 feet south of Rabbitt Hill Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Kirk Rother, Engineer.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Lead Agency
2. Applicant to discuss project.
3. Construction of driveway culverts at Sta. 11+00 and 16+70 appear to have a minor effect on delineated wetlands. Provide justification for the delineation at these locations.
4. FOR THE RECORD - The applicant’s engineer has provided a letter report following the Planning Board’s “poor soil” protocol to confirm that the soil in the development area is a suitable type inclusion, SXC, based on surveyed topography and analysis of deep test pits..
5. Revise the Common Driveway typical section; use 8-inch deep subbase.
6. The proposed lot #2 does not accommodate the Town’s square rule. Applicant requests a waiver.

**BEFORE FINAL APPROVAL:**

7. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Notes, Aquifer Protection Overlay Notes, and Private Road Use and Maintenance Agreement Notes.
8. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
9. Applicant to provide 9-1-1 addressing.
10. Pay parkland fees.
11. Pay outstanding review fees.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-21K.(1)	Shape of lots. Waiver from the requirement to inscribe a 350-foot square within proposed lot #2’s boundary.

The following comment submitted by the Conservation Board, dated 8/1/09:

Alan and Maureen Mante - This plan is likely to increase the impact on the nearby wetlands through the use of the existing culverts. The CB believes the runoff in severe weather can be mitigated by requiring additional storm water runoff controls (e.g., rain garden).

The following comment submitted by the ARB:

Alan and Maureen Mante – None submitted.

Comment #1: Board to discuss SEQR.

A. Lead Agency

Mr. Fink: The Planning Board has declared Lead Agency on this application. We have been reviewing it using the short EAF. It is an Unlisted Action. There is one remaining SEQR issue. That would be comment #3, regarding the delineation of the wetlands. It was done about 4 years ago. It does appear that there would be some impacts on the wetlands. I don't believe there has been a Jurisdictional Determination or a third party verification done. That would be the only outstanding remaining comment under SEQR that would need to be addressed.

Comment #2: Applicant to discuss project.

Kirk Rother: The application is for a proposed 2-lot subdivision. It is situated on approximately 11.9 acres of land. It lies on the eastern side of Bellvale Lakes Road, in the MT zone. Access to the two lots would be by means of an existing private or shared driveway. It required a 280a variance from the ZBA. The ZBA granted the 280a variance on April 27, 2009. There would be one lot with 5.4 acres. One lot will have the existing dwelling with the existing well and septic system. Lot #2, would be a proposed new single-family dwelling, situated on approximately 6.4 acres.

Comment #3: Construction of driveway culverts at Sta. 11+00 and 16+70 appear to have a minor effect on delineated wetlands. Provide justification for the delineation at these locations.

Kirk Rother: Right. One area would be about 75 square feet of disturbance. The other area would be slightly over 200 square feet of disturbance. The total of disturbance would be approximately .007 of an acre. The delineation was done by ERS Consultants. It was my understanding at the Work Session that the Town's consultants would be going out to verify the location of the wetlands.

Mr. Bollenbach: Ted, has that been done yet?

Mr. Fink: No. That has not been done yet.

Comment #4: FOR THE RECORD - The applicant’s engineer has provided a letter report following the Planning Board’s “poor soil” protocol to confirm that the soil in the development area is a suitable type inclusion, SXC, based on surveyed topography and analysis of deep test pits.

Kirk Rother: Ok.

Comment #5: Revise the Common Driveway typical section; use 8-inch deep subbase.

Kirk Rother: Ok.

Comment #6: The proposed lot #2 does not accommodate the Town’s square rule. Applicant requests a waiver.

Kirk Rother: We have spoken about this. Given the geometry of the lot that we have to work with, we spill over by approximately 4 feet.

Mr. Astorino: Ok. Do any Board members have any comments on the waiver? There are no comments from the Board.

**BEFORE FINAL APPROVAL:**

Comment #7: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Notes, Aquifer Protection Overlay Notes, and Private Road Use and Maintenance Agreement Notes.

Kirk Rother: Ok.

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

Kirk Rother: Will do.

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

Kirk Rother: Yes.

Comment #10: Pay parkland fees.

Kirk Rother: Yes.

Comment #11: Pay outstanding review fees.

Kirk Rother: Yes.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-21K.(1)	Shape of lots. Waiver from the requirement to inscribe a 350-foot square within proposed lot #2’s boundary.

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

Connie Sardo: Mr. Chairman, we received a comment from the Conservation Board, dated 8/1/09.

Mr. Astorino: Zen, regarding the Conservation Board comment, maybe you could take a look at that.

Mr. Bollenbach: That comment goes back to comment #3. We haven't verified the wetland delineation. We cannot close out SEQR. We would have to adjourn this public hearing. Maybe, we could adjourn the public hearing to the first meeting in September. Ted, would that give you enough time to verify?

Mr. Fink: Yes.

**Mr. Showalter makes a motion to adjourn the Mante Public Hearing to the September 2, 2009 Planning Board meeting.**

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

Kirk Rother: Thank you.

**PUBLIC HEARING OF Brian and Melissa Singer**

Application for Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 66 B 1 L 75; parcel located on the western side of Briller Road 1000 feet south of Continental Road, in the CO zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the July 15, 2009 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer.

Mr. Astorino: We received a letter from Brian and Melissa Singer, dated 7/31/09 addressed to Connie Sardo the Planning Board Secretary and the Planning Board. The letter is stated as follows:

*Dear Connie:*

*Per our conversation, please adjourn our subdivision from the August 5<sup>th</sup> Planning Board meeting to the August 19<sup>th</sup> meeting. We will be away on vacation next week.*

*Please feel free to call me with any questions or concerns.*

*Thank you as always for your continued assistance.*

*Sincerely,*

*Brian Singer*

Mr. McConnell: Mr. Chairman, aren't we also waiting for further information?

Mr. Astorino: Yes. There is outstanding information that we are waiting for from the applicant.

Mr. McConnell: That would be a more appropriate reason to adjourn the public hearing.

Mr. Astorino: We are going to open the public hearing regardless. We did adjourn it to this date. Zen, are there any comments on here that stand out?

Zen Wojcik: No. Comment #1 B & C is the information that we are waiting for.

Mr. Astorino: That was what we discussed the last time.

Zen Wojcik: Yes. We are also waiting for information regarding comment #6.

Mr. Astorino: Ok. We are still waiting for the screening plantings and the location of the Class B(T) tributary to Long House Creek.

Zen Wojcik: It was my understanding that people are working on that. We should have that information soon.

Mr. Astorino: Would we have that information by August 19<sup>th</sup>?

Zen Wojcik: I don't see why not.

Kirk Rother: The tree survey has been done.

Mr. Astorino: Ok. Let us go through Comment #1 first.

1. Board to discuss SEQR.
  - A. \* Project is within the Ridgeline Overlay District. Provide a viewshed analysis – Visual EAF Addendum and line-of-sight profiles – to the Town Planner's specifications.
  - B. Identify and locate on plan significant trees within the limits of disturbance.
  - C. Identify location of Class B(T) tributary of Long House Creek and any associated freshwater wetlands.
2. \* Applicant to discuss project.
3. \* Applicant proposes a common driveway on the currently unpaved portion of Briller Road. Revise typical section of roadway; common driveway section is 2" depth of top course asphalt on 8" depth of compacted subbase. Revise proposed common driveway profile for 12% maximum grade.
4. \* Regarding erosion control measures:
  - a. The common driveway typical section shows roadside swales "where applicable". No swales are indicated on the common driveway between Briller Road and the turnaround. Applicant has proposed to control runoff on his property. Show appropriate measures.
  - b. Spacing of check dams is inconsistent with note #2 of the Temporary Stone Check Dam Detail.
  - c. Show stabilized construction accesses on the ends of the Lot 1 and 2 driveways at the end of the common driveway.
  - d. Revise references on sheet 3 of 5 to details on sheet 6.
5. \* Show the proposed intersection of Blake Road with the common driveway.
6. Provide screening plantings, as necessary, to the Town Planner's specification.

**BEFORE FINAL APPROVAL:**

7. \* Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Radon Reduction Notes and Private Road Use and Maintenance Agreement Notes.
8. \* Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
9. \* Pay parkland fees.
10. \* Pay outstanding review fees.

The following review comments submitted by the Conservation Board, dated 8/1/09:

Brian and Melissa Singer - This project is in the Ridgeline Overlay. The CB has noted (in similar developments in this region) that rattlesnakes may be present. There is also a question of wetlands in this area. The CB recommends the disturbance be carefully monitored to avoid impact on any wetlands and protected species.

The following comment submitted by the ARB:

Brian and Melissa Singer – None submitted.

Comment # 1: Board to discuss SEQR.

- A. \* Project is within the Ridgeline Overlay District. Provide a viewshed analysis – Visual EAF Addendum and line-of-sight profiles – to the Town Planner’s specifications.
- B. Identify and locate on plan significant trees within the limits of disturbance.
- C. Identify location of Class B(T) tributary of Long House Creek and any associated freshwater wetlands.

Mr. Fink: These are the issues that we are waiting for information on.

Mr. Astorino: Ok. We will list comments 2 through 10 for the record.

Comment #2: \* Applicant to discuss project.

Comment #3: \* Applicant proposes a common driveway on the currently unpaved portion of Briller Road. Revise typical section of roadway; common driveway section is 2” depth of top course asphalt on 8” depth of compacted subbase. Revise proposed common driveway profile for 12% maximum grade.

Comment #4: \* Regarding erosion control measures:

- a. The common driveway typical section shows roadside swales “where applicable”. No swales are indicated on the common driveway between Briller Road and the turnaround. Applicant has proposed to control runoff on his property. Show appropriate measures.
- b. Spacing of check dams is inconsistent with note #2 of the Temporary Stone Check Dam Detail.
- c. Show stabilized construction accesses on the ends of the Lot 1 and 2 driveways at the end of the common driveway.
- d. Revise references on sheet 3 of 5 to details on sheet 6.

Comment #5: \* Show the proposed intersection of Blake Road with the common driveway.

Comment #6: Provide screening plantings, as necessary, to the Town Planner’s specification.

**BEFORE FINAL APPROVAL:**

Comment #7: \* Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Radon Reduction Notes and Private Road Use and Maintenance Agreement Notes.

Comment #8: \* Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.

Comment #9: \* Pay parkland fees.

Comment #10: \* Pay outstanding review fees.

Mr. Astorino: Do any Board members or Professionals have any comments? We will be adjourning this public hearing to the August 19, 2009 Planning Board meeting. This is a public hearing. If there is anyone from the audience wishing to address the Brian and Melissa Singer application with any new comments, please rise and state your name for the record.

Phyllis Briller: Mr. Chairman, would you be continuing the public hearing to the August 19, 2009 Planning Board meeting?

Phyllis Briller: Ok. Comments could be made at that time.

Mr. Astorino: Sure.

Phyllis Briller: Ok. Thank you.

**Mr. McConnell makes a motion to adjourn the Brian and Melissa Singer Public Hearing to the August 19, 2009 Planning Board meeting.**

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

Kirk Rother: Thank you.

**Review of Submitted Maps:*****Shuback Farms***

Application for Sketch Plat Review of a proposed Lot Line Change, situated on tax parcels S 6 B 2 L 81 and L 83; parcels located on the north westerly side of Mt. Eve Road 700 feet northwest of intersection of Little York Road and Mt. Eve Road, in the AI zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Joe Seperac, Attorney. Kevin Shuback, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Tax lot designations shown on the plan are incorrect; both lots are in Block 2.
4. On the Vicinity Map, show the location of Shuback Lane, a private road, which provides access to SBL 6-2-83.
5. Provide the deed and the recording information on the map for the lot line change.
6. Provide the declaration and the recording information on the plan for Agricultural Notes and Aquifer Protection Overlay Notes.
7. Provide a dedication strip on Mt. Eve Road for the Town Board's consideration.
8. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
9. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 8/1/09:

Shuback Farms – The CB has no comment.

The following comment submitted by the ARB:

Shuback Farms – None submitted.

Comment #1: Board to discuss SEQR.

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

Mr. McConnell makes a motion for Lead Agency.

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

Resolution Establishing Lead Agency  
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Shuback Re-Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Shuback Farms, Inc. for a  $\pm$  1.07 acre parcel of land located at Mount Eve Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 7/14/09 was submitted at the time of application, and

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

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

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

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

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

Comment #2: Applicant to discuss project.

Joe Seperac: This application is for a simple lot line change. Looking at the map, the property owned by Mickey Shuback is currently about .75 acres. To the left of the property there is a R.O.W.. That property is owned by Shuback Farms, Inc. That is a 5-acre parcel. What the applicant intends to do is to deed that portion of the R.O.W. to Mickey Shuback.

Comment #3: Tax lot designations shown on the plan are incorrect; both lots are in Block 2.

Joe Seperac: We will take care of that.

Comment #4: On the Vicinity Map, show the location of Shuback Lane, a private road, which provides access to SBL 6-2-83.

Joe Seperac: We will take care of that.

Comment #5: Provide the deed and the recording information on the map for the lot line change.

Joe Seperac: No problem.

Comment #6: Provide the declaration and the recording information on the plan for Agricultural Notes and Aquifer Protection Overlay Notes.

Joe Seperac: Is there a declaration that the Town of Warwick uses?

Mr. Bollenbach: Yes.

Joe Seperac: Ok.

Mr. Bollenbach: Give me a call. I will take a look at the application tomorrow. I will fax it out to you.

Joe Seperac: Ok.

Comment #7: Provide a dedication strip on Mt. Eve Road for the Town Board's consideration.

Joe Seperac: Ok.

Mr. Bollenbach: It appears that the R.O.W. area already has that dedication strip on it. It would have to be continued along so the Town could improve the road if it needs to be.

Joe Seperac: Ok. Correct.

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

Joe Seperac: Fine.

Comment #9: Pay outstanding review fees.

Joe Seperac: Ok.

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

Mr. Singer: He is taking this R.O.W. away and adding it to the smaller lot. How would you get to Shuback Farms?

Kevin Shuback: There is Shuback Lane. There is another road. We have another R.O.W..

Mr. Singer: Where is that?

Mr. Astorino: That was what Zen had asked them to show on the map.

Mr. Bollenbach: On this map, you would have to delete Right-Of-Way. This is just for a lot line change. This "Right-Of-Way" is property owned by Shuback Farms. It is actually Shuback Farms that is being conveyed to Mickey Shuback. That Right-Of-Way should be deleted.

Joe Seperac: Ok.

Mr. Singer: Is it a Private Road?

Mr. Astorino: Yes.

Kevin Shuback: It is a private driveway that goes down to the barn.

Mr. Singer: Who owns that?

Mr. Astorino: It is owned by Shuback.

Kevin Shuback: Shuback Lane would be the corner lot. We have a R.O.W. through it.

Mr. Bollenbach: That is in their deed.

Kevin Shuback: That is in our deed. I actually have another R.O.W. We don't use it.

Mr. Singer: Ok.

Mr. Astorino: Does the Board have any other comments? Does the applicant wish to waive the public hearing?

Joe Seperac: Yes.

Mr. Showalter makes a motion to waive the Shuback Farms public hearing.

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

Mr. Fink: Mr. Chairman, there is no construction proposed on this application. I have prepared a Negative Declaration for the Planning Board's consideration.

Mr. McConnell makes a motion for the Negative Declaration.

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

617.12(b)

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

**Name of Action:** Shuback Re-subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed re-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 7/14/09, 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 on the Shuback Farms application, granting Final Approval for a proposed Lot Line Change, situated on tax parcels S 6 B 2 L 81 and L 83; parcels located on the north westerly side of Mt. Eve Road 700 feet northwest of intersection of Little York Road and Mt. Eve Road, in the AI zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on, August 5, 2009. Approval is granted subject to the following conditions:

1. Tax lot designations shown on the plan are incorrect; both lots are in Block 2.
2. On the Vicinity Map, show the location of Shuback Lane, a private road, which provides access to SBL 6-2-83.
3. Provide the Deed and the Recording Information on the map for the lot line change with map revisions to the Town Engineer's specifications.
4. Provide the Declaration and the Recording Information on the plan for Agricultural Notes and Aquifer Protection Overlay Notes.
5. Provide a Dedication Strip on Mt. Eve Road for the Town Board's consideration.
6. Certify Setting of Iron Pins. Surveyor to certify that iron rods have been set at all property corners.
7. Pay Outstanding Review Fees.

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

Joe Seperac: Thank you.

Kevin Shuback: Thank you.

***Stephen and Kelly Helmrich***

Application for Sketch Plat Review of a proposed 2-Lot (Minor) subdivision, situated on tax parcel S 12 B 4 L 50; parcel located on the northerly side of Little Brooklyn Road 1200 feet westerly of Little York Road, in the SM zone, of the Town of Warwick.

Representing the applicant: John McGloin, PLS.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Identify South-westerly line of parcel as centerline of Little Brooklyn Road.
4. This portion of Little Brooklyn Road is in the Aquifer Protection Overlay and adjacent to active agricultural lands. Note "Yes" in the Overlay Zone box at these two Districts.
5. The proposed lots do not satisfy the square rule (§137-21K(1)). Show how the parcel could be subdivided to comply with the square rule.
6. Show a limit of disturbance and note the area.
7. Provide a sanitary disposal system design based on perc and deep tests witnessed by the Town Engineer's representative.
8. Consider measures to improve the quality of runoff from the developed site.
9. Provide a dedication strip on Little Brooklyn Road for the Town Board's consideration.

The following comment submitted by the Conservation Board, dated 8/1/09:

Stephen & Kelly Helmrich - This project is in the Aquifer Protection Overlay and is adjacent to black dirt agricultural lands. The CB recommends adequate measures be taken to avoid runoff and that the septic be located carefully so as to avoid any impact on the adjacent lands.

The following comment submitted by the ARB:

Stephen & Kelly Helmrich – None submitted.

Comment #1: Board to discuss SEQR.

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

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: Helmrich Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Kelly Helmrich and Stephan F. Helmrich for a ± 1.373 acre parcel of land located at 21 Little Brooklyn Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 7/15/09 was submitted at the time of application, and

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

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

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

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

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

Comment #2: Applicant to discuss project.

John McGloin: The applicants propose to subdivide 1.4 acres into 2 separate lots with an existing home, septic system, and well on one lot. On the other lot would be an existing barn, a proposed dwelling, septic system and well.

Mr. Astorino: How big is the acreage?

John McGloin: It is 1.373 acres.

Mr. Astorino: Ok.

Comment #3: Identify South-westerly line of parcel as centerline of Little Brooklyn Road.

John McGloin: We could do that.

Comment #4: This portion of Little Brooklyn Road is in the Aquifer Protection Overlay and adjacent to active agricultural lands. Note "Yes" in the Overlay Zone box at these two Districts.

John McGloin: We could do that.

Comment #5: The proposed lots do not satisfy the square rule (§137-21K(1)). Show how the parcel could be subdivided to comply with the square rule.

John McGloin: I don't think I could do that. I will try to do that. I might be looking for a waiver for that.

Mr. Bollenbach: John, take a look at this. You could still look for a waiver. I think if you increased the lot width, you could do a flag lot. You could have one in the front and one in the back. Do a little sketch of that for the Board's consideration. Then, the Board could consider whether or not they would want to have a waiver.

John McGloin: Ok. I would be happy to do that.

Comment #6: Show a limit of disturbance and note the area.

John McGloin: We could do that.

Comment #7: Provide a sanitary disposal system design based on percs and deep tests witnessed by the Town Engineer's representative.

John McGloin: Yes.

Comment #8: Consider measures to improve the quality of runoff from the developed site.

John McGloin: Ok.

Comment #9: Provide a dedication strip on Little Brooklyn Road for the Town Board's consideration.

John McGloin: Yes.

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

John McGloin: We would like to ask to be set for a public hearing.

**Mr. Showalter makes a motion to set the Stephen and Kelly Helmrich application for a Final Public Hearing at the next available agenda.**

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

Mr. Astorino: We received a comment from the Conservation Board, dated 8/1/09. We have discussed that.

Mr. Singer: Since we have had problems on Little Brooklyn Road before, are there any potential flooding problems on that road at this point?

Mr. Astorino: We would have to take a look at that.

Zen Wojcik: Carl, it is two doors away from the Giovannoli subdivision. It has much the same information.

Mr. Astorino: We will be looking into that matter.

John McGloin: Thank you.

**Other Considerations:**

1. **Carroll Equipment 2-Lot Subdivision** – Planning Board to discuss scheduling a site visit. Property is located on Denton Lane, SBL # 31-2-30.21.

The following comment submitted by the Conservation Board, dated 8/1/09:

Carroll Equipment 2-Lot Subdivision - The CB notes there are wetlands and slope issues on this property that should be evaluated on the pending site visit.

The following comment submitted by the ARB:

Carroll Equipment 2-Lot Subdivision – None submitted.

Mr. Astorino: Does the Board want to do the site visit before the Work Session on Monday, 8/10/09?

Mr. McConnell: Yes.

Mr. Showalter: Yes.

Mr. Astorino: We will scheduled the Carroll Equipment 2-Lot Subdivision site visit for Monday, 8/10/09 at 6:30 p.m.. We will meet on Denton Lane. We have a comment from the Conservation Board, dated 8/1/09.

2. **Meadowcrest/Steve Sullivan #2** – Planning Board to discuss referral to the ZBA.

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

Mr. Astorino: Does the Board have any thoughts on that at this time?

Mr. Bollenbach: Have we received any more information on that?

Mr. Astorino: We are just receiving information right now from Dave Getz.

Mr. Bollenbach: Did we not receive any information for review prior to tonight?

Mr. Astorino: No.

Dave Getz hands out a memo addressed to the Planning Board, dated 8/5/09 regarding information on the Meadowcrest application.

Dave Getz: Based upon some comments provided at the Work Session, we received information on the number of seats at the Greenwood Lake Subway and the Typical 1500 square-foot Subway that Subway had provided. There is a table on this sheet that shows the Meadowcrest proposal for 1,000 square feet and 18 seats maximum. The Greenwood Lake Subway has 40 seats and the Typical Shop based upon actual water use data, it was 116 gpd of water use average that would have 30 seats.

Mr. McConnell: Dave, if you are receiving information from Subway as to a Typical 1500 square-foot shop having 30 seats, etc... Could you provide us with a copy of that correspondence? I would like to see something with their letterhead on it.

Dave Getz: Ok. Yes.

Mr. Astorino: Ok. When is the ZBA meeting?

Connie Sardo: The next ZBA meeting will be in September.

Mr. Astorino: Ok. We have time. We will discuss this at a Work Session.

Mr. Bollenbach: Let us put them on the next Work Session, Monday, 8/10/09.

Mr. Astorino: Ok.

Dave Getz: The last paragraph in our memo describes the food service operation that he would be proposing. We would ask for a definition that would provide limitations on the type of food service operations.

Mr. Astorino: Ok.

Dave Getz: Thank you.

3. **Vincent Czubak Lot Line Change** – Letter from Dennis P. Caplicki, Attorney dated March 6, 2009 Received on July 17, 2009 in regards to the Vincent Czubak Lot Line Change Application – requesting “**2<sup>nd</sup> Re-Approval**” of Final Approval of a proposed Lot Line Change, situated on tax parcels S 6 B 1 L 40.41, 42, & 46.1; parcels located on the eastern side of Skinners Lane 1730 feet north of Pulaski Highway, in the AI zone. Final Approval was granted on 7/18/07. 1<sup>st</sup> Re-Approval of Final Approval was granted on 7/16/08. *The applicant and its attorney are currently still going through some legal matters.* The 2<sup>nd</sup> Re-Approval of Final Approval becomes effective on, 7/16/09, subject to the conditions of Final Approval granted on, 7/18/07.

Mr. Showalter makes a motion on the Vincent Czubak application, granting “**2<sup>nd</sup> 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 north 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) The 2<sup>nd</sup> Re-Approval of Final Approval becomes effective on, 7/16/09.

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

4. **Planning Board Minutes of 7/15/09** – Planning Board Minutes of 7/15/09 for Planning Board Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 7/15/09

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

**Correspondences:**

1. Memo from Supervisor Michael Sweeton, dated 7/29/09 addressed to Chairman Ben Astorino & Planning Dep't. – in regards to proposed revisions to the Town's Design Shopping Zone in the vicinity of NYS Route 94 South.

Mr. Astorino: We could discuss that at the 8/10/09 Work Session.

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

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

**Mr. McConnell makes a motion to adjourn the August 5, 2009 Planning Board meeting.**

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