

TOWN OF WARWICK PLANNING BOARD

September 1, 2010

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, September 1, 2010 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

**PUBLIC HEARING OF Verizon / Gary and Kathy Randall #3**

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

Representing the applicant: Steve Hutchinson from Tectonic Engineering.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Verizon/Randall #3 public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: No comments (letter dated 06/01/10, 08/29/10).
4. Architectural Review Board comments: No comments (email dated 06/01/10).
5. Wireless Telecommunication Facility Board comments: Project currently under review by WTF Board.
6. OC Planning Department: No comments; no advisory comments (06/01/10)
7. Applicant to certify that all branches are in place (and not damaged) per the previously approved plan. Certification of this shall be provided to the Building Department.
8. Surveyor to certify that iron rods have been set at all property corners.
9. Payment of all fees.
10. A building department permit will be required after planning board approval and prior to construction.

The following comment submitted by the Conservation Board, dated 9/1/10:

Verizon Wireless / Gary & Kathy Randall #3 – CB has no comments.

The following comment submitted by the ARB, dated 9/1/10:

Verizon Wireless / Gary & Kathy Randall #3 – ARB has no comments.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has declared itself Lead Agency on this application. It is an Unlisted Action. We have been reviewing the project with a Short EAF. Essentially, this application is for the replacement of equipment and a vault. The tower is already camouflaged. The applicant has agreed to provide matching antennas in term of colors. The tower is located within the Town's Ridgeline Overlay District. There are notes on the plan to that effect.

Mr. Astorino: Ok.

Comment #2: Applicant to discuss project.

Steve Hutchinson: We proposed to take 6-antennas down and replacing them with new antennas and with a fiber vault within the existing utility easement.

Comment #3: Conservation Board comments: No comments (letter dated 06/01/10, 08/29/10).

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

Comment #5: Wireless Telecommunication Facility Board comments: Project currently under review by WTF Board.

Laura Barca: We still have not received the comments from them.

Comment #6: OC Planning Department: No comments; no advisory comments (06/01/10).

Comment #7: Applicant to certify that all branches are in place (and not damaged) per the previously approved plan. Certification of this shall be provided to the Building Department.

Steve Hutchinson: Ok.

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

Steve Hutchinson: Yes.

Comment #9: Payment of all fees.

Steve Hutchinson: Yes.

Comment #10: A building department permit will be required after planning board approval and prior to construction.

Steve Hutchinson: Ok.

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

Laura Barca: We will need to add a comment #11, provide Ridgeline Overlay Protection notes to the plans.

Mr. Astorino: Ok. We will add comment #11. This is a public hearing. If there is anyone in the audience wishing to address the Verizon/Randall #3 application, please rise and state your name for the record. Let the record show no public comment.

Mr. Showalter makes a motion for the Negative Declaration.

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

617.12(b)

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

**Name of Action:** Verizon-Randall # 3 Site Plan

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed wireless antenna replacement project on an existing camouflaged monopole, 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 05/05/10, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Mr. Kowal makes a motion on the Verizon Wireless/Gary & Kathy Randall #3 application granting Site Plan Approval for the construction and use to replace (6) Existing Antennas at the existing elevation and add (6) coax cables inside the existing camouflaged monopine wireless telecommunication tower and a 3'x5' fiber vault within the existing utility easement, situated on tax parcel S 19 B 1 L 47/2; project located on the southwestern side of Route 94 approximately 900 feet set back from Route 94 (675 St. Hwy. 94N), in the MT zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on September 1, 2010. Approval is granted subject to the following conditions:

1. Applicant to certify that all branches are in place (and not damaged) per the previously approved plan. Certification of this shall be provided to the Building Department.
2. Surveyor to certify that iron rods have been set at all property corners.
3. Add RL-O Map Notes to Planning Board Engineer's specifications.
4. A building department permit will be required after planning board approval and prior to construction.
5. Payment of all fees.

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

Steve Hutchinson: Thank you.

**PUBLIC HEARING OF James and Marianne Manzollilo**

Application for Site Plan Approval for the construction and use of a swimming pool and associated cabana and retaining walls which are located in “*A Sensitive Area*” of Greenwood Lake, situated on tax parcel S 73 B 5 L 5; project located on the western side of Brook Trail (159 Brook Trail) 30 feet west of the dwelling, in the SM zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Marianne Manzollilo, applicant.

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

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – No comments, letter dated 08/29/10.
4. Architectural Review Board – dated 08/28/10
  - a. Painting the wall can replace ivy, if PB concurs
  - b. Provide privacy plantings, but not overplanting
  - c. Requesting drawings of the finishing details of the proposed pool house
5. If ivy is being proposed, the plants must be shown at the bottom of the retaining walls.
6. Applicant has submitted Benjamin Moore color samples and is requesting to use Natural Beige (58). A note shall be added to the plan stating the selected color and texture.
7. Photometrics have not been provided on cut sheets. Verify location of lantern light directly at the end of the pool. Is this fixture UL listed for wet locations?
8. Some specific landscaping comments: Plant Details make reference to specifications and notes. If not provided, update detail (planting mix, staking). Soil within the plant pit should not be tamped. To avoid settlement, soak soil with water. Root balls should not be planted above finished grade unless there is a drainage problem with the soil. If there is a drainage problem, an under drain should be provided. If no drainage problems, roots balls should be installed flush with finished grade. What type of mulch is proposed? 4” of mulch is proposed for trees, while 3” for shrubs, is this intentionally different? Boxwood is proposed to be planted at 3-5ft in height. Full size mature height of the plant is only 3-4ft. Please verify availability of arborvitae. What is proposed is a western arborvitae, of a very large size, and generally hard to find in this area. Typical nursery sizes go up to 12ft height, not 20-30ft. Provide re-size plants or provide nursery intended to provide plants.
9. The drainage outlet has been moved to reduce the erosion potential, as requested; however calculations for the outfall (energy dissipater) in accordance with NYSDEC have not been submitted (New York Standards and Specifications for Erosion and Sediment Control – Rock Outlet Protection).
10. It should be clarified if the pipe discussed above is a surface pipe or a subsurface pipe.

11. Include manufacturer's recommendations for adhering the top block of the retaining wall to the block beneath it.
12. The design calculations for the global stability analysis submitted are for a reinforced segmental retaining wall, however, the plans show a gravity segmental retaining wall. Submit complete design calculations for the proposed retaining wall.
13. A three-year landscaping bond shall be established for all plantings shown on the drawing. The purpose of this bond is to ensure the re-planting if the plant dies within 3 years of planting.
14. Prior to construction, a percolation test must be completed and witnessed for the stormwater seepage pits (the calculations assume a percolation rate of 8 minutes per inch).
15. The declaration information (liber and page) for the Agricultural, Aquifer, and Traditional Neighborhood Overlay Notes will need to be shown on the drawing.
16. Payment of all fees.

The following comment submitted by the Conservation Board, dated 9/1/10:

James and Marianne Manzolillo – CB has no comments.

The following comment submitted by the ARB, dated 9/1/10:

James and Marianne Manzolillo - Mrs. Manzolillo supplied the Planning Board and ARB with a color selector for concrete colors.

She has expressed a reservation about using ivy or vinca to camouflage the concrete block that will be used as retaining elements for the construction of the pool.

As John Bollenbach indicated, the Planning Board should see the reflectivity levels of this stain. We also note that these are the "off the shelf" colors, and while Neutral Beige is amongst the better ones, there are custom colors available. There are also five other brands of cement finish, several of which offer "marbleized" finishes which would work extremely well. Four of the standard colors are accent colors which are not applicable to this installation. Four are very standard cement colors. We would suggest a custom color that is more green than Natural Beige and not as intense as the Green shown. We note on the plans that the ivy is planted above the concrete – and if the Planning Board believes it is appropriate for soil retention and erosion control, the ivy should be planted below the blocks and encouraged to grow up over the blocks. Custom staining may eliminate the need for such over-growing plants.

Obliques on the Orange County website of the Manzolillo property and the neighboring properties would indicate that some exposure of the concrete blocks is not completely out of character with the neighboring properties. It also indicates that current plantings around the property provide a great deal of privacy to both the applicant and the neighbors. While many of those plantings may need to be removed for construction, we would encourage replanting to the same level as exists on the property today. Discrete plantings for privacy at the pool and poolhouse should be added, but "over planting" should be avoided.

We still would like to see drawing of the proposed pool house. Mrs. Manzolillo has promised to provide us with samples (print is acceptable) of the Hardie Plank siding and architectural roofing shingles she has selected. It is our understanding from this drawing that the building will be 17 ft. x 24 ft. x 12 ft. high. While the Town Engineer advises that this is not habitable space, it should be treated in terms of exterior and finishing details with the same attention to detail that

would be given to habitable space. We would, indeed, like to see the finishing details of how the siding elements will come together at the corners.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has declared itself Lead Agency. It is an Unlisted Action. We have been reviewing the project with a Short EAF. There are a couple of outstanding comments in the review comments tonight. In the ARB comments, they are looking for elevations on the proposed cabana. The other issue is that a couple of corrections need to be made to the lighting. There were some lighting specifications that the applicant provided that would need to be amended.

Marianne Manzolillo: I did not see anything about elevations from the ARB.

Mr. Astorino: I believe it was in one of their comments.

Mr. Fink: It is stated in the ARB comments, dated 9/1/10.

Mr. Astorino: I did speak to Mr. Batz about the need of elevation plans. He has said that since the cabana was going to be non inhabitable space, that elevation drawings were not needed. As far as the texture and what it would be constructed of, that would be needed. The Planning Board would like to see all of the materials on this cabana to see how it would look.

Marianne Manzolillo: I have provided that.

Mr. Astorino: Yes. We do have that. Ted, do you have anything else to add?

Mr. Fink: No.

Comment #2: Applicant to discuss project.

Marianne Manzolillo: We propose to construct a swimming pool, cabana, and a retaining wall.

Comment #3: Conservation Board – No comments, letter dated 08/29/10.

Comment #4: Architectural Review Board – dated 08/28/10

- a. Painting the wall can replace ivy, if PB concurs

Mr. Astorino: Mrs. Manzolillo, have you made a decision on that?

Marianne Manzolillo: I prefer to paint versus the ivy.

Mr. Astorino: Do any Planning Board members have any comments on that? Do you have the colors for that?

Marianne Manzolillo: I picked a natural beige.

Mr. McConnell: My concern about this was not having a monolithic structure and the ivy would break it up. I am concerned about the painting not accomplishing that. I don't know what the ARB's recommendation is. I don't know what just the painting would do. If you had painted it white, it would not accomplish what I would like to see accomplished. If they put a faux finish on it to make it look like rocks or something, then that would be a different story.

Marianne Manzolillo: It would be a rough surface.

Mr. Showalter: In the ARB comment, it is stated that custom staining may eliminate the need for such overgrowing plants.

Marianne Manzolillo: Right.

Mr. McConnell: That is just a recommendation from the ARB to us about that.

Mr. Astorino: Let's go on to the other comments. We could discuss that matter as we get more into this.

- b. Provide privacy plantings, but not overplanting

Mr. Astorino: Ted, that would be your call. You will need to check the landscaping to make sure it is adequate.

Mr. Fink: Yes.

- c. Requesting drawings of the finishing details of the proposed pool house

Mr. Astorino: We just discussed that regarding what type of building materials and such.

Comment #5: If ivy is being proposed, the plants must be shown at the bottom of the retaining walls.

Marianne Manzolillo: Yes

Comment #6: Applicant has submitted Benjamin Moore color samples and is requesting to use Natural Beige (58). A note shall be added to the plan stating the selected color and texture.

Marianne Manzolillo: Yes.

Comment #7: Photometrics have not been provided on cut sheets. Verify location of lantern light directly at the end of the pool. Is this fixture UL listed for wet locations?

Marianne Manzolillo: Right. Photometrics will be provided. We will verify the location of the lantern light. The fixture will be UL listed.

Mr. Astorino: It would have to meet the lighting Design Guidelines.

Marianne Manzolillo: Yes.

Comment #8: Some specific landscaping comments: Plant Details make reference to specifications and notes. If not provided, update detail (planting mix, staking). Soil within the plant pit should not be tamped. To avoid settlement, soak soil with water. Root balls should not be planted above finished grade unless there is a drainage problem with the soil. If there is a drainage problem, an under drain should be provided. If no drainage problems, roots balls should be installed flush with finished grade. What type of mulch is proposed? 4" of mulch is proposed for trees, while 3" for shrubs, is this intentionally different? Boxwood is proposed to be planted at 3-5ft in height. Full size mature height of the plant is only 3-4ft. Please verify availability of arborvitae. What is proposed is a western arborvitae, of a very large size, and generally hard to find in this area. Typical nursery sizes go up to 12ft height, not 20-30ft. Provide re-size plants or provide nursery intended to provide plants.

Marianne Manzollilo: Right. The details provided were for mature trees.

Mr. Astorino: Ted, you will have to take a look at that.

Mr. Fink: Yes.

Comment #9: The drainage outlet has been moved to reduce the erosion potential, as requested; however calculations for the outfall (energy dissipater) in accordance with NYSDEC have not been submitted (New York Standards and Specifications for Erosion and Sediment Control – Rock Outlet Protection).

Marianne Manzollilo: We will submit that.

Comment #10: It should be clarified if the pipe discussed above is a surface pipe or a subsurface pipe.

Marianne Manzollilo: It will be clarified.

Comment #11: Include manufacturer's recommendations for adhering the top block of the retaining wall to the block beneath it.

Marianne Manzollilo: We will include that.

Comment #12: The design calculations for the global stability analysis submitted are for a reinforced segmental retaining wall, however, the plans show a gravity segmental retaining wall. Submit complete design calculations for the proposed retaining wall.

Marianne Manzollilo: Yes.

Laura Barca: We talked about this earlier tonight. What happened was regarding which type of wall would be the most cost effective, the engineer created both of them? Once they made their decision to go with a gravity wall, all of the calculations were done with a gravity wall. But, accidentally the plans that were submitted were for the reinforced wall.

Mr. Astorino: The applicant will have to get that to us.

Marianne Manzollilo: Ok.

Comment #13: A three-year landscaping bond shall be established for all plantings shown on the drawing. The purpose of this bond is to ensure the re-planting if the plant dies within 3 years of planting.

Marianne Manzollilo: Will do.

Comment#14: Prior to construction, a percolation test must be completed and witnessed for the stormwater seepage pits (the calculations assume a percolation rate of 8 minutes per inch).

Marianne Manzollilo: We will conduct the test.

Comment #15: The declaration information (liber and page) for the Agricultural, Aquifer, and Traditional Neighborhood Overlay Notes will need to be shown on the drawing.

Marianne Manzollilo: It will be shown.

Comment #16: Payment of all fees.

Marianne Manzollilo: Yes.

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

Argie Bowman: I am an officer of the Indian Park Homeowners Association. Mrs. Manzollilo is also my neighbor. We live about 5 houses away from each other. How many people in the neighborhood were supposed to be notified?

Mr. Astorino: It is done within 300 feet of the boundary of the property.

Argie Bowman: Ok.

Mr. Bollenbach: What are your concerns?

Argie Bowman: I have the same backyard as Mrs. Manzollilo's backyard. One of my concerns is the sensitivity of the area. I have concerns about construction, rock, and water drainage. Indian Park traditionally has water problems. It is somewhat controllable. We have done the best we could. We don't want any further water problems for anyone's property when any construction happens.

Mr. Astorino: The Board has done a site visit out to the property. Regarding the retaining wall, we made the applicant do borings into the rock to make sure it was stable enough. The erosion control has been reviewed by HDR, which is the Planning Board's engineer. It was reviewed to make sure the construction and drainage is taking place properly in accordance with the NYS standards to make sure that there would be no adverse effects onto the neighbor's property during and after construction.

Argie Bowman: Ok. This is the first that we are hearing about this. A lot has happened up to this point. There was no one from Indian Park that knew about it. We just heard rumors that a pool was going up. We just have concerns about the safety and the appearance of our little place there.

Mr. Astorino: Right.

Mr. McConnell: We have the same concerns.

Argie Bowman: Ok.

Mr. Showalter: We asked the Engineer to prove structurally that the pool and the wall would be able to stay there.

Argie Bowman: How big would the pool be?

Marianne Manzolino: It is not a large pool. It would be 14'x28' maximum 16' in size.

Argie Bowman: Ok.

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

Carol Cook: I represent the estate of Josephine Lyons. When would this project start?

Mr. Astorino: That would be up to the applicant. If we give them an approval, there would be conditions that they would have to meet. Once the applicant submits the site plan for signature, our professionals will review the plans to make sure all of the conditions are met. Once, that is done, the maps would be signed off. After that, the applicant would apply for a building permit. It would be up to the applicant to get those maps into us for final review.

Carol Cook: Ok. Would the Building Department stay involved?

Mr. Astorino: Yes.

Argie Bowman: In terms of a 3-year planting bond, would there be any other bonds in place if something should happen 5 to 10 years from now?

Mr. McConnell: No.

Argie Bowman: Thanks.

Mr. Astorino: Is there anyone else wishing to address the Manzolino application? Let the record show no further public comments.

Mr. Showalter makes a motion for the Negative Declaration.

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

617.12(b)

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

**Name of Action:** Manzolillo Site Plan

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed pool, pool house and other site improvements at 159 Brook kTrail within the Greenwood Lake Designated Protection Area, 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 03/29/10, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Mr. Showalter makes a motion on the James and Marianne Manzolillo application, granting Site Plan Approval for the construction and use of a swimming pool and associated cabana and retaining walls which are located in "A Sensitive Area" of Greenwood Lake, situated on tax parcel S 73 B 5 L 5; project located on the western side of Brook Trail (159 Brook Trail) 30 feet west of the dwelling, in the SM zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on September 1, 2010. Approval is granted subject to the following conditions:

1. a) Provide privacy plantings to the Town Planner's specifications.  
b) Provide sketch drawings of the finishing details of the proposed pool house prior to building permit.
2. If ivy is being proposed, the plants must be shown at the bottom of the retaining walls.
3. Applicant has submitted Benjamin Moore color samples and is requesting to use Natural Beige (58). A note shall be added to the plan stating the selected color and texture.
4. Photometrics have not been provided on cut sheets. Verify location of lantern light directly at the end of the pool. Is this fixture UL listed for wet locations? Revise to Planning Board Engineer's specifications.
5. Some specific landscaping comments: Plant Details make reference to specifications and notes. If not provided, update detail (planting mix, staking). Soil within the plant pit should not be tamped. To avoid settlement, soak soil with water. Root balls should not be planted above finished grade unless there is a drainage problem with the soil. If there is a drainage problem, an under drain should be provided. If no drainage problems, roots balls should be installed flush with finished grade. What type of mulch is proposed? 4" of mulch is proposed for trees, while 3" for shrubs, is this intentionally different? Boxwood is proposed to be planted at 3-5ft in height. Full size mature height of the plant is only 3-4ft. Please verify availability of arborvitae. What is proposed is a western arborvitae, of a very large size, and generally hard to find in this area. Typical nursery sizes go up to 12ft height, not 20-30ft. Provide re-size plants or provide nursery intended to provide plants. Revise to Town Planner's specifications.
6. The drainage outlet has been moved to reduce the erosion potential, as requested; however calculations for the outfall (energy dissipater) in accordance with NYSDEC have not been submitted (New York Standards and Specifications for Erosion and Sediment Control – Rock Outlet Protection).
7. It should be clarified if the pipe discussed above is a surface pipe or a subsurface pipe.
8. Include manufacturer's recommendations for adhering the top block of the retaining wall to the block beneath it.
9. The design calculations for the global stability analysis submitted are for a reinforced segmental retaining wall, however, the plans show a gravity segmental retaining wall. Submit complete design calculations for the proposed retaining wall.
10. A three-year landscaping bond shall be established for all plantings shown on the drawing. The purpose of this bond is to ensure the re-planting if the plant dies within 3 years of planting.
11. Prior to construction, a percolation test must be completed and witnessed for the stormwater seepage pits (the calculations assume a percolation rate of 8 minutes per inch).
12. The declaration information (liber and page) for the Agricultural, Aquifer, and Traditional Neighborhood Overlay Notes will need to be shown on the drawing.
13. Payment of all fees.

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

Marianne Manzolillo: Thank you.

**PUBLIC HEARING OF Donald Fisk**

Application for Site Plan Approval for the demolition and reconstruction of an existing dwelling, new well, replacement of sewage disposal system located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 77 B 1 L 23; project located on the western side of Shore Avenue (61 Shore Avenue) 1300 feet north of Forest Avenue, in the SM zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Bob Krahulik, Attorney. Dave Getz from Lehman & Getz Engineering. Donald Fisk, applicant. Jane Pierce, applicant.

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

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board: No comments (05/19/10, 08/29/10)
4. Architectural Review Board (05/19/10)
  - a. Proposed elevations on all four sides
    - i. Complete, 06/09/10
  - b. Integration of existing porch to proposed structure
    - i. Before Bldg Permit
5. Greenwood Lake Commission – letter dated 05/11/10
  - a. Dye test conducted upon completion of septic
    - i. Before CO issued.
  - b. Stormwater runoff management (garden/drywell)
    - i. Incomplete.
  - c. Remove Note #17 (OCDOH note)
    - i. Complete.
6. OC Planning Department (04/16/10): No advisory comments
7. Applicant to provide copies of Home Owner's Association road maintenance agreement.
8. On Sheet 1, the note for the modular retaining wall references Note 28; this note is now Note 27. All references to notes should be checked because Note 17 was removed.
9. The Applicant should add the leveling pad (to scale) to the Subsurface Sewage Disposal System on Sheet 3 of 4; OCDOH may want to opine on the position and 3-ft width of the leveling pad (if it will impede the percolation into the undisturbed earth). Dimension the clear width between the concrete footings.
10. A note should be added that the method of retaining the porch as a free-standing structure during construction shall be provided as part of the submittal to the Building Department to receive a Building Permit.
11. The aerobic septic system requires that a copy of the three-year maintenance contract (to be renewed as appropriate) with annual verification stating that the contract is still in place be submitted to the Building Department.
12. Surveyor to certify that iron rods have been set at all property corners.
13. Payment of all fees.
14. Provide method of retaining the porch as a free-standing structure.

15. A dye test will need to be conducted after the new septic system has been installed.

The following comment submitted by the Conservation Board, dated 9/1/10:

Donald Fisk – CB has no comments.

The following comment submitted by the ARB, dated 9/1/10:

Donald Fisk - The ARB would like to see elevations that explain how this renovation will be integrated with the existing building and the overall site.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has declared itself Lead Agency on this application. We have been reviewing it using the Short EAF. There were a number of questions raised regarding the septic system. I believe that most of those questions have been answered. They are proposing a new septic and a new well with chlorination. The Greenwood Lake Commission had some comments regarding stormwater runoff with erosion as far as construction is concerned. They have suggested that maybe a rain garden or a drywell would be useful. I believe those are the only outstanding SEQR issues.

Comment #2: Applicant to discuss project.

Dave Getz: The applicant proposes to upgrade the house and the utilities. Since our last appearance, there has been some work done on some details. The attorneys have been working on the private road issues.

Bob Kraulik: There has been much discussion over the homeowner's obligation to pay towards the common charges associated with road maintenance, snow plowing, and future repairs. The applicant will be signing and recording with the County Clerk a declaration that would obligate not only this property owner but all future property owners to pay common charges towards road maintenance, road improvements, and snow plowing going forward starting on January 1, 2011.

Mr. McConnell: Would it be all future property owners or all future owners of this property?

Bob Kraulik: It would be for all future owners of this property.

Mr. McConnell: Thank you.

Mr. Bollenbach: Dennis, you had a question regarding the agenda blurb. It is for the demolition and reconstruction of an existing dwelling. I have discussed that with the Building Inspector for clarification.

Mr. McConnell: Thank you.

Comment #3: Conservation Board: No comments (05/19/10, 08/29/10)

Comment #4: Architectural Review Board (05/19/10)

- a. Proposed elevations on all four sides
  - i. Complete, 06/09/10
- b. Integration of existing porch to proposed structure
  - i. Before Bldg Permit

Comment #5: Greenwood Lake Commission – letter dated 05/11/10

- a) Dye test conducted upon completion of septic
  - ii. Before CO issued.
- b) Stormwater runoff management (garden/drywell)
  - i. Incomplete.
- c) Remove Note #17 (OCDOH note)
  - i. Complete.

Mr. Astorino: Regarding the stormwater runoff management, we are leaning towards a rain garden.

Dave Getz: Due to the limited top and bedrock, we were looking more towards the line of a stormwater planter.

Comment #6: OC Planning Department (04/16/10): No advisory comments

Comment #7: Applicant to provide copies of Home Owner's Association road maintenance agreement.

Bob Krahulik: We were unable to get a copy of whatever exists from the HOA. I think that issue is moot because we will be providing you with a declaration of our own that would obligate us to pay the common charges towards the road maintenance going forward.

Mr. McConnell: Have we seen a copy of that declaration yet?

Bob Krahulik: I have a draft of it. I haven't shared it with John yet. Typically in the past, that is something that is done after the approval is given and before the maps are signed.

Mr. McConnell: Ok.

Comment #8: On Sheet 1, the note for the modular retaining wall references Note 28; this note is now Note 27. All references to notes should be checked because Note 17 was removed.

Dave Getz: Will do.

Comment #9: The Applicant should add the leveling pad (to scale) to the Subsurface Sewage Disposal System on Sheet 3 of 4; OCDOH may want to opine on the position and 3-ft width of the leveling pad (if it will impede the percolation into the undisturbed earth). Dimension the clear width between the concrete footings.

Dave Getz: We sent a draft to Laura.

Laura Barca: It is fine. You will just need to show the dimensions on the bottom.

Dave Getz: Ok.

Comment #10: A note should be added that the method of retaining the porch as a free-standing structure during construction shall be provided as part of the submittal to the Building Department to receive a Building Permit.

Dave Getz: We will add the note.

Comment #11: The aerobic septic system requires that a copy of the three-year maintenance contract (to be renewed as appropriate) with annual verification stating that the contract is still in place be submitted to the Building Department.

Dave Getz: Yes.

Comment #12: Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: We ask that on the northern side of the retaining wall to do that after construction.

Mr. Bollenbach: It would have to be bonded.

Dave Getz: Ok.

Comment #13: Payment of all fees.

Dave Getz: Ok.

Comment #14: Provide method of retaining the porch as a free-standing structure.

Dave Getz: Is comment #14 the same as comment #10?

Laura Barca: Comment #10 is to place the note on the plans. Comment #14 is a place keeper for the Building Department after construction.

Dave Getz: Ok.

Comment #15: A dye test will need to be conducted after the new septic system has been installed.

Dave Getz: Ok.

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

Mr. Singer: Bob had said that they would be paying their share of maintenance. How does the dollar amount arrive to that?

Bob Krahulik: I am not sure how the Forest Park Association prepares their budget and sends bills out to the property owners.

Mr. Singer: If they have 25 houses on this road and 10 of the houses belongs to the HOA, do you figure that he would be sharing with the 10 houses or the 25 houses?

Bob Krahulik: The HOA would be sending a statement out. Their budget to the people is based on the number of people that have historically paid. Our fair share would be based on their budget. I don't want to speak on behalf of the HOA. I am just making an assumption.

Mr. Astorino: You are going to rely on the HOA to send you a bill.

Bob Krahulik: Right.

Mr. Singer: We don't know how many people are in the HOA.

Bob Krahulik: No. We don't.

Mr. McConnell: Why should we care?

Mr. Singer: They might send him a bill that you might not be happy about. I don't know how that would be determined.

Bob Krahulik: I am not going to say that we might not have a dispute with the HOA about the bill. But, legally we will be obligated to pay our fair share.

Mr. Bollenbach: Bob, there was some documentation that was provided. We requested information and they provided bills for the last 17 years. I can't remember the numbers. It was something like \$525.00. A portion of that was for the road maintenance and snowplowing.

Bob Krahulik: It tends to vary dramatically from what I could see based on whether they make some capital improvements on paving. I have seen a budget. They did take some time to prepare an annual budget for the HOA. The bottom line is that they will be sending out bills from the HOA. As of January 1, 2011, they will be obligated to pay based on the declaration that will be recorded at the O.C. Clerk's office. That is a lot more than you would find a record for the other 98% of the homes in Forest Park where there are no records.

Mr. Singer: If you have 25 homes and they are going to send out bills to 10 of the homes who are members of the HOA, would he be the 11<sup>th</sup> home that would pay the same amount as the other 10 homes? Or, would it be based on the other 25 homes that should be paying?

Mr. Bollenbach: Carl, where are you going with this?

Mr. Singer: He is not going to agree with the number he gets once he gets the bill.

Bob Krahulik: The important thing that is happening now is that the declaration will give the HOA a basis of where they could sue the property owner and assess a levy against the property for the amount of the unpaid charges. Legally there will be documentation of record at the County Clerk's office that the HOA would be able to reply on and enforce the right to collect common charges. Up until now, that documentation did not exist. That was why the HOA lost the first lawsuit. That was why that dispute was continued up until today. There was nothing of record.

Mr. Astorino: Ok. Do any Board members or Professionals have anything else? This is a public hearing. If there is anyone in the audience wishing to address the Fisk application, please rise and state your name for the record.

Joan Cerone: I am president of the Forest Park Association. I have been president of the Forest Park Association for the last 22 years. Our Attorney would have been here tonight, but he is on vacation. First of all, we would like nothing better than to have Mr. Fisk's property improved. We have been in court with this from 1989 up to 2001. Eventhough Mr. Krahulik is talking about a declaration, we do have maintenance agreements on the property that we will be celebrating our 100<sup>th</sup> year next year. Back then, there were no rules or regulations to consider. This is a Private Road. We do not say this is how many people we anticipate that are going to pay our bill. It is a common charge at the end of each year. We estimate exactly what our budget line items are. It is divided by every person in the community.

Mr. Astorino: Does everyone in Forest Park get a bill?

Joan Cerone: Yes. They pay their prorata share of expenses. Along with our Attorney, Bill Larkin, we have taken this all the way up to the courts in the State of New York. It has been ruled in case law that everyone has to pay their prorata share of expenses. This has been in existence since 1995. It is a bone of contention with the community because right now eventhough you are considering this application, we have problems with the ingress and egress of heavy equipment going down to Mr. Fisk's property. There is no bond in place right now to make sure the road wouldn't be damaged. I have spent 15 years in court with our Attorney to make sure that everyone pays their prorata share.

Mr. Astorino: We understand that you send a bill to everyone in Forest Park. How do you do that? Do you bill once or twice a year?

Joan Cerone: We do it for affordability reasons. We have a common charge for the administration and the operation of the whole community. Our community also encompasses Sterling Forest. Most of the roads in Sterling Forest are public roadways. The people who live on private roads are assessed at a prorata share each year.

Mr. Astorino: That is to maintain the road.

Joan Cerone: That is for maintaining the road. That bill went out to Mr. Fisk last month. It is always billed in August of each year. Road Maintenance is always billed in August of each year. For snow removal, it is always billed in October of each year.

Mr. Astorino: There will be another billing coming in October. Mr. Fisk, did you receive a bill in August?

Donald Fisk: Not yet. I did not get one for the snow plowing.

Mr. Astorino: No. We are talking about the bill for the road maintenance that is billed in August.

Donald Fisk: I did in 2009, not in 2010.

Joan Cerone: I did send the bill out on July 30, 2010.

Mr. Astorino: Do you know how much that charge was?

Joan Cerone: It was \$350.00.

Mr. Astorino: Ok.

Joan Cerone: The concern that we have with this particular property is that there will be heavy equipment coming in. Mr. Fisk has not paid for road maintenance and snow removal in many years. That is a separate argument that we will have to tackle ourselves.

Mr. Astorino: This sounds like if he provides a declaration, you would have a leg to stand on from this time forward. John, there will be a declaration that says the owner will have to pay all of the common charges for road maintenance on this property. John, would that hold up?

Mr. Bollenbach: Yes.

Joan Cerone: I understand that. But, what this sounds like is that Mr. Fisk is asking to pick and choose what he wants to pay for.

Mr. Astorino: No. I don't see that at all. What it seems to me right now is that a declaration will be set in place that he would have to abide to.

Joan Cerone: Whether it would be irrelevant or not, we have a common charge bill which encompasses the administration and operation minus road maintenance and snow removal because of our uniqueness of half of our community being serviced by the Town of Warwick with road maintenance and snow removal. The other area of the bill that Mr. Fisk received in December of every year is for the administration and operation including the beach rights that he has. I was told that he would agree to pay for the road maintenance and the snow removal, but we also have the beach that is about 30 feet away from his house. That also gets a bill. It has to be paid for. It is a common charge. We call it that because Forest Park is not a club. It is an Association. Everyone within the community has a deeded right whether or not they use the services.

Mr. Astorino: The bill in August would be \$350.00. What is the amount of the October bill?

Joan Cerone: That would be \$150.00.

Mr. Astorino: What would the common charges be for the beach charges in December?

Joan Cerone: It was for this year for the administration and operation of the community in 2010 it was \$520.00. He is a Senior Citizen. He gets a discount rate of \$50.00 on that.

Mr. Astorino: Ok. That would make it at \$470.00. Mr. Krahulik, do you understand all of these charges?

Bob Krahulik: Yes. I do. We are not agreeing tonight to pay those charges. We don't think we have any obligation to pay for the beach. Our deed states that our obligation to contribute to the HOA is optional.

Joan Cerone: It does not say that.

Mr. Astorino: What is your opinion on these charges that were set forward tonight?

Mr. McConnell: What this Board is concerned about is to have safe and adequate access to the property, which brought up the question about road maintenance. In the past, we have asked for copies of road maintenance agreements in private road situations. Because of the facts that have been outlined the solution has been proposed that Mr. Fisk will add this declaration to the deed that he would agree to pay and agree for all future owners of the property to pay for road maintenance and plowing. That covers our concern about safe and adequate access to the property. The access to the beach and paying for the administrative costs for it, I don't believe is an issue for us to address or have the authority to address. I do feel your frustrations about that.

Mr. Astorino: I don't agree with that. It sounds to me that all of those homes have access to the beach and whether you intend to use the beach or not, you could fight about that later. We are talking about here on a yearly basis approximately \$870.00. That is for everything. I don't know what your plans are with that house if you intend on living there or not or selling it. Before I give an approval, I want to find out what is going on there. There are administrative costs going on. To me, it doesn't seem to be an outrageous amount of money. That is my opinion. The rest of the Board might have another opinion.

Joan Cerone: I have a Title report from years ago when we were in Supreme Court. It states that all 175 properties have the right to access the water. It has nothing to do with beach operation. It would be the same if you were in a condominium or a coop. I am not a swimmer. I have never been on my beach in 30 years. Does that mean I don't pay the bill. It is an amenity in the community. This is not a club. I had a conversation with Mr. Fisk tonight. He told me his family has been there for a very long time. This is the first time tonight that I have ever seen or met them. The community is very concerned about the safety and access going down to the property. There is going to be a lot of demolition work going on and a lot of heavy equipment going down the road. That means we are not protected.

Mr. Astorino: We have done bonds on a private road before in Greenwood Lake. That has been done in the past.

Mr. Showalter: Ben, I have a question. I understand Mrs. Cerone and the Board's concern about the road. I have a question for Mrs. Cerone. We have asked the applicant or the applicant's Attorney on whether or not they had a road maintenance agreement, a

letter, or something. Mrs. Cerone, I don't know if that was ever provided. To me, that brought up a little red flag to the Board. How come we have never seen the paperwork?

Joan Cerone: Having been an association for 100 years and most of the associations in the Town of Warwick were either created as clubs or incorporated as years went on... I have worked very hard on this over the years with Bill Larkin. I have a reputation with so many attorneys about calling. There are two closings taking place tomorrow. Both of these properties don't have maintenance agreements. The attorneys know from case law that was established over the years with our Attorney Bill Larkin that a maintenance agreement when the property is turned over is now being signed to not only protect the community and the present homeowner, but to bind all future homeowners. There was no way that 100 years ago this was going to happen.

Mr. Astorino: It sounds to me that there are a lot of homeowners there in good faith paying their "share" without a piece of paper.

Joan Cerone: I could tell you that I have been in court 203 times for people not wanting to pay. The score is 203 to 0 because this court or any court does not tolerate it.

Mr. Showalter: That is fine. What I would suggest and like to see is that you get this over with by all of you sitting down at a table and discussing this like adults. Maybe that would help to get your association all together.

Joan Cerone: We have been through the ringer for the last 23 years.

Mr. Astorino: What Roger is trying to say is that maybe you shouldn't have to go through the ringer every time.

Joan Cerone: We don't anymore. Mr. Fisk's situation is a unique one in that years and years ago he came to this court and the local justice said that he did not have to pay the bill. That was way before all of the case law had been established. I don't want to take Mr. Fisk to court. The problem is that the homeowners are furious over the fact. My concern with this declaration is that it is selective for road maintenance and snow removal. That is what concerns you.

Mr. Showalter: Now that we are getting through all of this, you would be getting better than what you had. You were getting nothing before. At least now, you would be getting something.

Mr. Astorino: There is an administrative charge, paperwork, and work that has to be done to send out bills, etc... That SBL property whoever lives there has access to the beach, the road, and access to get in and out safely. That is the bottom line. If the applicant wants to pursue something else with this, that would be fine. The Board might have another way to go here. If you want to pursue another avenue, that would be fine. Let us know and we could hold this over. Other than that, the Board could make another decision.

Mr. Bollenbach: I just want to pick up on Dennis prior comment where the Board was originally concerned with the road and the safe access. I think the Board might want to consider the administrative costs associated with putting out the contracts related to that road use maintenance. That would take care of that administrative component related to the road use and maintenance. Regarding the matter of taking care of the beach, that might be open for discussion.

Mr. Astorino: John, I really don't see that.

Mr. Showalter: It is not a ridiculous amount of money.

Mr. Astorino: I don't see that as a crazy expense.

Joan Cerone: If you divide that by 12, it comes out to \$70.00 a month.

Mr. McConnell: My concern is that I don't want to set a precedent with this Board or myself to compel someone to pay a charge that they feel has a court decision that says they don't have to pay. I think the notion of administrative cost that John and Ben made were good points that it isn't about how much the money is. That is not the issue here. It is whether we have the authority to compel something with this regard. We do have the authority to compel something with adequate and safe access. It is not access to the beach or maintenance to the beach.

Mr. Astorino: I understand that. But, what is an administrative charge?

Mr. McConnell: That is not for me to determine. It is for the parties to determine that.

Mr. Astorino: Exactly.

Joan Cerone: It is not just for the beach. We received our school taxes yesterday. According to Mr. Fisk, he has to pay his prorata share just as everybody else has to pay.

Bob Krahulik: We are happy to pay the administrative charges for road maintenance, repair, and snow plowing.

Joan Cerone: We do not agree with that.

Bob Krahulik: They are not obligated to pay for the beach.

Joan Cerone: There were 7 other cases in that year. All of those people have been to court, just like Mr. Fisk has. They have all been made to pay the bill.

Mr. Astorino: Why don't you get us a cost of what the administrative charges are and back to us with that?

Joan Cerone: We had a paid staff of people who administrate with the community. That is also part of it. This almost seems like an argument that is irrelevant. I don't care that they want to build a house. I just want to know if there would be a bond and a maintenance agreement that would be signed. I am not going to consent to that it says it is only for road maintenance and snow removal. There is no one else in the community that has that.

Mr. McConnell: Mr. Chairman, I would suggest that this Board accept the offer of the deeded declaration and require a bond to be posted to protect the road. Let the courts, association, and the applicant settle the rest of it. Let's not take up any more of our time on this. We are concerned about the road.

Mr. Showalter: I agree with Mr. McConnell.

Mr. Astorino: If that is what the Board wants to do. But, I don't agree with that.

Mr. Singer: I agree with Mr. McConnell.

Joan Cerone: What I would like to say before a final decision is made and our Attorney is not here with us this evening, I need to consult with him on this. If this declaration is going to set a precedent about that property just paying for road maintenance and snow removal only, then I have a really big problem with that. All of the other 174 properties are not like that.

Mr. McConnell: Unfortunately, this is not the forum to address that.

Joan Cerone: I understand that. My concern is the declaration saying that he is only going to pay just these two things. This is not a menu where you could choose what you want to pay and what you don't want to pay.

Mr. McConnell: Unfortunately, you are not in a restaurant and you are not getting a choice from a menu. It is our feeling if the road is going to be protected and provide safe and adequate access.

Mr. Astorino: John, what is your opinion on this?

Mr. Bollenbach: I think Mr. Krahulik's offer is reasonable with the declaration that has been proposed.

Mr. Singer: I agree.

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

Paul Palombi: I live on XX Shore Ave. I live 2 doors down from the Fisk property. My concern is that we have a culvert. Joan has mentioned that she wants a bond put up. We have a culvert. We had a well rig going over the top of it. I have seen it sink down.

Mr. Astorino: We could place a bond to the Planning Board Engineer's specification. Laura, I am sure you could get us a number for the applicant.

Laura Barca: Yes.

Paul Palombi: How many feet would the septic system be from the lake?

Mr. Astorino: It is an aerobic system.

Laura Barca: It is an aerobic system. It is also in front of OCHD.

Mr. Astorino: A dye test will be performed after it is installed.

Paul Palombi: When my house was built, they made sure the septic was 100 feet from the lake.

Mr. Astorino: This is a different system. We will make sure that it will work properly. Dave, could you show Paul and Joan where the septic is located on the map.

Dave Getz shows the map to Paul and Joan where the septic system is located. Paul wanted to know that the aerobic system is on the property line and asked if it should be 10 feet away. Our Planning Board Engineer Laura Barca says that it is 5 feet from the property line.

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

Joan Cerone: The only thing that I ask and since our Attorney is on vacation, please take our issues into consideration.

Mr. Astorino: Ok. Is there anyone else wishing to address the Fisk application? Let the record show no further public comment.

Laura Barca: Ben, the only suggestion that I would make to the owners is to video tape the road at its entire length that the trucks would be driving on before any trucks go there. That way it is absolutely positive on what the road looked like before so that there would be no more animosity about what the road looked like. It will be a clear picture. Then, make sure after you video tape it, to watch it to see what you had recorded.

Mr. Singer: Laura, that is a very good idea.

Laura Barca: Thank you.

Mr. Kowal makes a motion for the Negative Declaration.

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

617.12(b)

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

**Name of Action:** Fisk Site Plan

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed demolition and reconstruction of an existing dwelling, installation of a new well and a replacement sewage disposal system at 61 Shore Avenue within the Greenwood Lake Designated Protection Area, Town of Warwick, Orange County, New York, and

**Whereas**, there are other involved agencies pursuant to SEQR, including the Orange County Department of Health and Town Zoning Board of Appeals, which will make their own determinations of significance on this action and

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 02/03/10, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Mr. Showalter makes a motion on the Donald Fisk application, granting Site Plan Approval for the demolition and reconstruction of an existing dwelling, new well, replacement of sewage disposal system located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 77 B 1 L 23; project located on the western side of Shore Avenue (61 Shore Avenue) 1300 feet north of Forest Avenue, in the SM zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on September 1, 2010. Approval is granted subject to the following conditions:

1. Integration of existing porch to proposed structure to be provided before Building Permit.
2. a) Dye test conducted upon completion of septic and before CO issued.
3. b) Stormwater runoff management (rain garden detail to be provided to Planning Board Engineer's specifications.
4. Applicant to provide copies of Home Owner's Association road maintenance agreement. Provide declaration with map note.
5. On Sheet 1, the note for the modular retaining wall references Note 28; this note is now Note 27. All references to notes should be checked because Note 17 was removed.

6. The Applicant should add the leveling pad (to scale) to the Subsurface Sewage Disposal System on Sheet 3 of 4; OCDOH may want to opine on the position and 3-ft width of the leveling pad (if it will impede the percolation into the undisturbed earth). Dimension the clear width between the concrete footings.
7. A note should be added that the method of retaining the porch as a free-standing structure during construction shall be provided as part of the submittal to the Building Department to receive a Building Permit.
8. The aerobic septic system requires that a copy of the three-year maintenance contract (to be renewed as appropriate) with annual verification stating that the contract is still in place be submitted to the Building Department.
9. Surveyor to certify that iron rods have been set at all property corners. Provide Bond to Planning Board Engineer's specifications.
10. Payment of all fees.
11. Provide method of retaining the porch as a free-standing structure.
12. A dye test will need to be conducted after the new septic system has been installed.
13. Provide Private Road Repair Bond to Planning Board Engineer's specifications in the event applicant's construction activities cause damage.

Seconded by Mr. McConnell.

Mr. Astorino: The only discussion that I have on this application is that I would hope if the Board approves this application that the applicant and the Board would have a better leg to stand on. It doesn't seem like there is a lot of charges involved here. Maybe, you could sit down and work this out. There seems to be a lot of nonsense here for nothing. I think it would be wise for all of you to sit down together and work out the charges.

Motion carried; 5-Ayes.

Bob Krahulik: Thank you.

**Review of Submitted Maps:*****Fairgrounds #1 "Amended" Site Plan Approval (Autozone)***

Application for "AMENDED" Site Plan Approval and Special Use Permit for the construction and use of a commercial building entitled Autozone approximately 7,300 s.f., situated on tax parcel S 50 B 1 L 40.2; parcel located on the northern side of NYS Route 94 1500 feet east of Warwick Turnpike, in the DS zone of the Town of Warwick. Previously discussed and set for a public hearing at the 4/21/10 Planning Board meeting.

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

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments (letter dated 08/29/10)
  - a. Comments pending site inspection.
4. Architectural Review Board comments (dated 08/28/10)
  - a. Location of dumpster
  - b. Location of recycled oil, batteries, tires, etc.
  - c. "Barn door" re-design for side facing Route 94
  - d. Re-design of dormers
  - e. Location of parking
  - f. Management of "quick repairs" debris
5. OCPD – letter dated 04/16/10 – no advisory comments.
6. A detail for the sidewalks and/or painted pavement for pedestrian traffic should be shown for the parking spaces that are not immediately adjacent to Auto Zone.
7. Applicant to provide additional landscaping information, including planting schedules.
8. Lighting, in accordance with §164-43.4 shall be shown. The lighting shown has not been updated to show the new proposed lighting scheme.
9. Appropriate lighting details shall be added to the plan.
10. Any proposed signage not included in the approved Fairgrounds site plan, including proposed signage for the Autozone should be added to the plan in accordance with §164-43.1.
11. A note should be added to the plan referencing the original approval granted for Fairgrounds.
12. The line of sight scale should not be displayed at such an exaggerated scale.
13. A car/person should be added to the drawing with actual lines-of-sight shown.
14. A second line-of-sight should be added with a view over the detention basins to the Autozone building to the Price Chopper building.
15. The truck turning movements to the loading area should be shown.
16. HDR recommends that this site plan be sent to the fire department for its review of accessibility to the building.
17. The driveway pavement section on sheet 5 of 5 is different from the approved plan Sheet 17 of 21. The Applicant's engineer shall clarify the difference.

18. A site inspection would assist the planning board in seeing how the building and parking area proposed would fit into the site as it currently exists.
19. The total approved building square footage for Fairgrounds #1 and #2 was 82,538-sf; the current total proposal for Fairgrounds #1 and #2 is 82,609-sf. If the Planning Board approves the increase in square footage, a note should be added to the plan stating that the total building square footage has been utilized, even if the proposed square footage for Fairgrounds #1 is less than what was originally approved.
20. Sheet 2 states that SMH-8 will be removed. The extent of the existing sewer line that will also be removed shall be shown on the plan, as well.
21. If Sheet 2 is a Demolition Plan, then the plan should only show items that are to be demolished or removed. Items to be demolished should not be shown on subsequent plans.
22. Sheet 3 does not appear to show the revised grading around the southeast corner of the building or the west portion of the parking lot; this should be shown.
23. The existing contours should be labeled on Sheet 3.
24. Is the existing catchbasin CB2 proposed to catch all the stormwater from the parking lot?
25. If the existing timber guide rail is proposed to be removed, it should not be shown on Sheet 3. Is this guide rail proposed to be installed again after construction?
26. Are sidewalks proposed around the building to the dumpster?
27. Is there an outdoor cage area proposed for deliveries made during non-working hours?
28. There are proposed signs that "No parking during loading hours" is allowed; however, this sign must state what hours parking is not allowed.
29. The dumpster is well screened from Route 94, but the doors open into the traveling lane.
30. Check driveway access width, and entrance width to AutoZone; should be 24-ft minimum.
31. The drainage features and call-outs appear to be inconsistent with the information shown on the plan (i.e., 5 LF of 15" HDPE, etc.).
32. Verify that the end turn area is at least 10 ft.
33. Proposed silt fence is shown through a corner of the building; please adjust.
34. Plan should include dimensions: provide dimensions for parking spaces, drive aisles, sidewalk width, and building.
35. Accurately show proposed water and sewer connections; where will service room be located?
36. Provide a legend on all sheets; are the lights existing or proposed?
37. Landscape plan suggests that there is not sidewalk beyond the west corner of the building; please verify and make consistent with the site plan.
38. There is a label for 4- RaG in the parking lot behind the loading dock; where are these plants located?
39. There is a label for 6-Vde north of the loading area, but only 4 plants shown; please update.
40. There appears to be a groundcover or plant underneath the 9-Vde and 6-Vde. Is this the case? Also, underneath Qco at the northern corner of the building, there appears to be a perennial bed; please verify.
41. Sheet 4 of 6 Note #5 should state that the warrantee will begin at the time of acceptance.
42. Sheet 4 of 6 Note #19 says to see the landscape plan for seed mixture but the seed mixture is not provided on the landscape plan.
43. All above ground elements, including lighting should be shown on the landscape plan.
44. Existing trees are listed in the legend, but are not shown on the plan; please show existing trees on the site plan.
45. A detail for the perennials should be included.
46. Handicap detail should include a striping detail for the HC symbol, with dimensions.

47. Verify that the handicap ramp detail matches the plan and meets ADA requirements.  
Verify the locations of the HC signs in relation to the sidewalk and ramp.
48. Shown building columns in the front sidewalk on the site plans.
49. The architectural elevations do not show the proposed landscaping.
50. As a conditional of final site plan approval for Fairgrounds #1, a three-ring binder with all color, texture, roofing samples, etc. shall be submitted and retained with the Building Department after final approval is granted.
51. Payment of all fees.

The following comment submitted by the Conservation Board, dated 9/1/10:

Fairgrounds #1 “Amended” Site Plan Approval (Autozone) - Due to the rotation of the placement of the Autozone building, the CB would like to ensure adequate landscaping for screening. A member of the CB will attend the planned site visit.

The following comment submitted by the ARB, dated 9/1/10:

Fairgrounds #1 “Amended” Site Plan Approval (Autozone) - Adrian Goddard and Charles Schaeffer attended the 8/24 ARB meeting. We have asked Mr. Schaeffer to provide the Planning Board with electronic drawings of the following, specifically for the AutoZone building:

- a) A drawing of the proposal for handling the garbage disposal area. Mr. Schaeffer and Mr. Goddard indicated the use of a stone faced concrete midden where the dumpsters would be stored, camouflaged from sight. While the side of the building that now will face Price Chopper is not aesthetically the best, the need for an area to meet the needs of waste disposal is critical for this type of operation. It is to be hoped on the 9/1/2010 site visit that issues in terms of waste disposal access to the area can be clarified.

We also note that Auto Zone must make available places for storage of motor oil, tires, batteries, etc, which by law they must take for recycling from customers purchasing from them. The area we are discussing, we have been told, is primarily for the disposal of ordinary business trash and cardboard.

How this extra type of recycling is to be handled should be addressed at this time.

We have also asked to see a re-design of the side of the building now scheduled to face Route 94 N. The proposal for artificial windows or “black glazing” on the windows is less than desirable. The use of real windows for light is preferable. The corporate guidelines do not permit windows along the back of the storage area. Therefore, we have asked for a redesign, with alternate proposals, including a “barn door” type of theme which would be more “welcoming” to approaching traffic.

We have also asked for a re-design of the dormers in order to relieve the severity of the dormers as proposed. Mr. Schaeffer will be emailing these drawings to Connie Sardo to transmit to the ARB for further comment.

Given the position of the building on the site, it becomes very difficult, if not impossible, to place all parking “behind” the building. Parking as proposed will be to the south west of the building and will be somewhat camouflaged from view by the hillock lying between the proposed building and the entrance drive. This proposal also enlarges the footprint of the

building beyond the current pad available. The site visit on 9/1/2010 is important to understand how this will function and how the building will be accessed by delivery vehicles and garbage trucks.

Again, we caution that quick repairs (adding oil, replacing spark plugs) are typically done by customers on site and appropriate provisions must be made for disposal of containers and old parts without creating a hazard or unsightly mess.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The original Fairground's project went through an EIS procedure and through a full SEQR process. There was a Findings Statement that was adopted for findings to approve the project. It was subsequently amended. There is an amended Findings Statement that is in place. In the extent that the approved pad location where the Autozone is proposed to go and if there are increases in impacts from what was already addressed in the SEQR review process, then there would be a need to further address that under SEQR. At this point, we are in the process of reviewing that.

Mr. Astorino: Thank you. I just want to add a comment for the Board to discuss site visit. We were out there to the site this evening. Does the Board or Professionals have any comments regarding the site visit? Is the Board ok with the layout, parking, and design?

Mr. McConnell: I am fine with it.

Mr. Singer: What do you mean by design?

Mr. Astorino: The way the building would be sitting.

Dave Getz: What about the dumpster area?

Mr. Astorino: We discussed the dumpster area at the site. We have ARB comments, dated 9/1/10. It talks about the dormers. Carl, pointed that out. That is on the ARB comments. We have that. Is the Board ok with this? Do any Board members or Professionals have any questions about the site visit?

Mr. Singer: I still think the dumpsters should go on the other side of the building.

Mr. Astorino: I don't agree.

Mr. McConnell: I think my read of it was to put the dumpsters on the other side of the building would require the trucks to back into it.

Mr. Astorino: That was my problem with that.

Mr. McConnell: It would make it more difficult to access.

Mr. Astorino: I see your point in putting it there, but I think it would be more of a hassle over there. Carl, do you have anything else? Ok. Let us move onto the other comments.

Comment #2: Applicant to discuss project.

Dave Getz: Most of you had seen it there. Since our last appearance, the building has been rotated. It changes some of the aspects. Most of the impacts would be the same or less as the previous version that we had. The building has been reduced in size slightly. The revised layout lets us keep the existing lighting, curbing, landscaping, and grading, which has already been constructed. To me, that was one of the benefits to this revision.

Mr. Astorino: Ted, we will discuss additional landscaping along that side.

Mr. Fink: Yes.

Comment #3: Conservation Board comments (letter dated 08/29/10)

- a. Comments pending site inspection.

Comment #4: Architectural Review Board comments (dated 08/28/10)

a) Location of dumpster

Mr. Astorino: We are still discussing that. I don't know if it could be done over there.

- b) Location of recycled oil, batteries, tires, etc.

Mr. Astorino: Where will that be stored?

Adrian Goddard: It will be stored inside.

Mr. Astorino: We will need clarification on that.

- c) "Barn door" re-design for side facing Route 94

Adrian Goddard: Yes.

- d) Re-design of dormers

Mr. Astorino: You will need to put the dormers back on.

- e) Location of parking

Mr. Astorino: We took a look at that today. I think it makes sense where the parking will be going.

- f) Management of "quick repairs" debris

Mr. Astorino: I am not sure what that means.

Mr. McConnell: That means people doing repairs out in the parking lot or changing of oil, etc...

Adrian Goddard: We will commit to that. That won't happen.

Comment #5: OCPD – letter dated 04/16/10 – no advisory comments.

Mr. Astorino: Laura, are there any comments that stand out to you that we should go over?

Laura Barca: No.

Mr. Astorino: We have discussed lighting. The rest of these comments seem technical in nature. Do you want me to go through them?

Laura Barca: No. We don't need to go through them all. I have just one question. On the previous plan, it was requested for a line-of-sight drawing. There was one done showing a straight line onto Route 94. Then it was requested to do one coming in at an angle.

Dave Getz: Ok. We will take care of that.

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

Mr. McConnell: Do we consider any waiver to have parking in front of the store contrary to the Design Guidelines?

Mr. Astorino: To me, it makes sense driving in there where it is at.

Mr. McConnell: I understand that.

Dave Getz: From the road, it is not in front of the building. It would be along the side of the building.

Mr. Astorino: We will list comments 6 through 51 for the record.

Comment #6: A detail for the sidewalks and/or painted pavement for pedestrian traffic should be shown for the parking spaces that are not immediately adjacent to Auto Zone.

Comment #7: Applicant to provide additional landscaping information, including planting schedules.

Comment #8: Lighting, in accordance with §164-43.4 shall be shown. The lighting shown has not been updated to show the new proposed lighting scheme.

Comment #9: Appropriate lighting details shall be added to the plan.

Comment #10: Any proposed signage not included in the approved Fairgrounds site plan, including proposed signage for the Autozone should be added to the plan in accordance with §164-43.1.

Comment #11: A note should be added to the plan referencing the original approval granted for Fairgrounds.

Comment #12: The line of sight scale should not be displayed at such an exaggerated scale.

Comment #13: A car/person should be added to the drawing with actual lines-of-sight shown.

Comment #14: A second line-of-sight should be added with a view over the detention basins to the Autozone building to the Price Chopper building.

Comment #15: The truck turning movements to the loading area should be shown.

- Comment #16: HDR recommends that this site plan be sent to the fire department for its review of accessibility to the building.
- Comment #17: The driveway pavement section on sheet 5 of 5 is different from the approved plan Sheet 17 of 21. The Applicant's engineer shall clarify the difference.
- Comment #18: A site inspection would assist the planning board in seeing how the building and parking area proposed would fit into the site as it currently exists.
- Comment #19: The total approved building square footage for Fairgrounds #1 and #2 was 82,538-sf; the current total proposal for Fairgrounds #1 and #2 is 82,609-sf. If the Planning Board approves the increase in square footage, a note should be added to the plan stating that the total building square footage has been utilized, even if the proposed square footage for Fairgrounds #1 is less than what was originally approved.
- Comment #20: Sheet 2 states that SMH-8 will be removed. The extent of the existing sewer line that will also be removed shall be shown on the plan, as well.
- Comment #21: If Sheet 2 is a Demolition Plan, then the plan should only show items that are to be demolished or removed. Items to be demolished should not be shown on subsequent plans.
- Comment #22: Sheet 3 does not appear to show the revised grading around the southeast corner of the building or the west portion of the parking lot; this should be shown.
- Comment #23: The existing contours should be labeled on Sheet 3.
- Comment #24: Is the existing catchbasin CB2 proposed to catch all the stormwater from the parking lot?
- Comment #25: If the existing timber guide rail is proposed to be removed, it should not be shown on Sheet 3. Is this guide rail proposed to be installed again after construction?
- Comment #26: Are sidewalks proposed around the building to the dumpster?
- Comment #27: Is there an outdoor cage area proposed for deliveries made during non-working hours?
- Comment #28: There are proposed signs that "No parking during loading hours" is allowed; however, this sign must state what hours parking is not allowed.
- Comment #29: The dumpster is well screened from Route 94, but the doors open into the traveling lane.
- Comment #30: Check driveway access width, and entrance width to AutoZone; should be 24-ft minimum.
- Comment #31: The drainage features and call-outs appear to be inconsistent with the information shown on the plan (i.e., 5 LF of 15" HDPE, etc.).
- Comment #32: Verify that the end turn area is at least 10 ft.
- Comment #33: Proposed silt fence is shown through a corner of the building; please adjust.
- Comment #34: Plan should include dimensions: provide dimensions for parking spaces, drive aisles, sidewalk width, and building.
- Comment #35: Accurately show proposed water and sewer connections; where will service room be located?
- Comment #36: Provide a legend on all sheets; are the lights existing or proposed?
- Comment #37: Landscape plan suggests that there is not sidewalk beyond the west corner of the building; please verify and make consistent with the site plan.
- Comment #38: There is a label for 4- RaG in the parking lot behind the loading dock; where are these plants located?
- Comment #39: There is a label for 6-Vde north of the loading area, but only 4 plants shown; please update.
- Comment #40: There appears to be a groundcover or plant underneath the 9-Vde and 6-Vde. Is this the case? Also, underneath Qco at the northern corner of the building, there appears to be a perennial bed; please verify.

Comment #41: Sheet 4 of 6 Note #5 should state that the warrantee will begin at the time of acceptance.

Comment #42: Sheet 4 of 6 Note #19 says to see the landscape plan for seed mixture but the seed mixture is not provided on the landscape plan.

Comment #43: All above ground elements, including lighting should be shown on the landscape plan.

Comment #44: Existing trees are listed in the legend, but are not shown on the plan; please show existing trees on the site plan.

Comment #45: A detail for the perennials should be included.

Comment #46: Handicap detail should include a striping detail for the HC symbol, with dimensions.

Comment #47: Verify that the handicap ramp detail matches the plan and meets ADA requirements. Verify the locations of the HC signs in relation to the sidewalk and ramp.

Comment #48: Shown building columns in the front sidewalk on the site plans.

Comment #49: The architectural elevations do not show the proposed landscaping.

Comment #50: As a conditional of final site plan approval for Fairgrounds #1, a three-ring binder with all color, texture, roofing samples, etc. shall be submitted and retained with the Building Department after final approval is granted.

Comment #51: Payment of all fees.

Mr. Singer: Ben and I talked about the landscaping along the side of Route 94, the short side. They would need more landscaping there. Ted, is that correct?

Mr. Fink: The landscaping will need to be beefed up in relation to Route 94. Regarding the issue on the parking waiver, I will need to check on that.

Mr. Astorino: Ok. This application has already been set for a public hearing. Please respond to these comments and the ARB comments. Get all the information back to us. We will review it. If all is ok, then we could put you on for a public hearing.

Dave Getz: Ok. Thank you.

Adrian Goddard: Thank you.

***Dr. Donald McCain and Imelda McCain***

Application for Site Plan Approval for the construction and use of a pond located within “A Designated Protection Area” of Wawayanda Creek, situated on tax parcels S 49 B 1 L 90 & L 33.2; project located on the northern side of State Highway 94 South 485 feet east of Wawayanda Road, (230 State Highway 94 South) in the RU zone, of the Town of Warwick.

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

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments:
  - a. How many trees were cleared?
  - b. To what extent was grading & excavating conducted?
4. Architectural Review Board comments: No comments submitted (08/28/10).
5. OC Planning Department: (pending submittal)
6. The Planning Board may want to consider a site inspection (in the evening to look at the lighting)?
7. The septic system is described as being located on 49-1-90, but it does not appear to be shown; the location of the septic system should be shown on the plan sheet.
8. The standards notes for the Aquifer and Agricultural Protection Overlays should be shown on the drawing.
9. Is there a shared driveway agreement for the shared driveways on lots 49-1-89 and 49-1-90; both are owned by Dr. & Mrs. McCain?
10. What is the source of the water for the ponds?
11. Is there a clay/bentonite/montmorillonite layer beneath the pond? How was the pond constructed to ensure stability of the structure?
12. Is there any maintenance associated with these manmade ponds?
13. What is the depth of the ponds?
14. What is the capacity of the pond (in million gallons)?
15. Is the lawn area around the ponds planned to be fertilized? Excess nutrients could run off the lands and into the ponds causing algal blooms, especially during warm weather.
16. Are algaecides proposed to be used?
17. There is a Federal wetland (PF01A) that is located on tax lot 49-1-89; the Applicant should investigate and determine if this wetland is located within tax lot 49-1-90 and/or within 100-ft of the area of disturbance.
18. The disturbed area around Pond B does not appear to be included in the 3.7 acres calculation of disturbed area.
19. For what purpose was the area in rear of the lot cleared?
20. Since more than 1-acre of land was disturbed (3.7 acres), a NYSDEC general stormwater permit would be required.
21. If the streambed of Wawayanda Creek was disturbed, a USACE permit will be required.
22. If the streambed or within 50-ft of Wawayanda Creek was disturbed, a NYSDEC Article 15 and protection of waters permit would be required.
23. Was the overall elevation raised or lowered to install the pond (e.g., was an embankment created)?

24. There is a FEMA floodplain associated with a portion of this project. This floodplain should be shown on the drawing.
25. A portion of this project was conducted in a Zone AE floodplain, which means that a Floodplain Development Permit must be issued from the Building Inspector. The Applicant should prepare an application in accordance with §89-4.3, as appropriate, and submit to the Planning Board for review prior to submitting to the Building Inspector.
26. If ponds are considered the same as pools, then the following setbacks apply: 15-ft rear yards, side yards, and dwelling; 20-ft for active wells, septic or leach field; no “pools” are allowed in front yards. Variances may be required for side yard setbacks.
27. The well and septic system on Lot 49-1-34.2 must be shown to ensure that both are greater than 20-ft away (building department requirements).
28. The NYSDOH separation distance requirements between a stream and various parts of the septic system must be shown on the drawing.
29. Where are the outfalls for both ponds; this information should be indicated on the plan.
30. If excavation was conducted, where were the excavated materials disposed?
31. The biodiversity overlay shall be added to the protection overlay areas on Sheet 1 of 1, including whether or not the project is including within this area.
32. According to §150, over 0.25-acre is not allowed to be cleared without approval from the Town; the amount of area disturbed was approximately 3.7 acres.
33. Although it is understand that some of the lighting concerns have already been addressed by the Applicant, the project area must be in compliance with §164-43.4. If the security lights have already been placed on motion sensors, a note must be added to the plan.
34. All exterior lighting must be in compliance with the Town Code, which means that all lighting must be shielded and glare must be minimized. Are isometric line drawings available for the existing condition?
35. The declaration information for the Aquifer and Agricultural Protection Overlays must be shown on the plan prior to the Chairman’s signature.
36. Surveyor to certify that iron rods have been set at all property corners.
37. Payment of all fees.

The following comment submitted by the Conservation Board, dated 9/1/10:

Dr. Donald McCain and Imelda McCain - The CB has several concerns regarding the construction of a pond located within a DEC “Designated Protection Area” of Wawayanda Creek. Did this construction cause any Flood Plain disturbances? How many trees were cleared? Where is the water coming from to fill the pond and where does pond overflow drainage go? To what extent did the grading and excavating impact the creek and its DEC protected surrounds? The CB strongly objects to this unlisted action and agrees that the planned site visit is needed. The CB recommends a complete visit of the entire property to ascertain what, if any, other unlisted actions/violations have occurred.

The following comment submitted by the ARB, dated 9/1/10:

Dr. Donald McCain and Imelda McCain – ARB had no comments.

Comment #1: Planning Board to discuss SEQRA.

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

Mr. McConnell makes a motion for Lead Agency.

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

617.6

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

Name of Action: McCain Site Plan

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application for construction of a pond within the Designated Protection Area of the Wawayanda Creek by Donald McCain for a ± 12.3 acre parcel of land located at 230 State Highway 94 , Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 08-10-2010 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

Comment #2: Applicant to discuss project.

Dave Getz: The Planning Board had done a site visit earlier today. Some of the wording describes this as a proposed pond. The pond has been built already. We didn't have all of the proper permits on this when the pond was built. We are here before you to prepare a plan to show accurately what was built. I think the Board would agree seeing the site today that it was very attractive. They were careful and respectful in what they had done. The Groundskeeper told us that the DEC had visited the site because they received some complaints. The DEC's response according to the Groundskeeper was that they checked it out and there were no violations or issues. We are interested in re-submitting to the Board a complete plan for the Board's review.

Mr. Astorino: Laura, would you contact the DEC and get a letter or something in writing to that effect? We would need something in writing from them.

Laura Barca: Yes.

Mr. Astorino: We will list comments 3 through 37 for the record. We will need to get the clarification from the DEC.

Dave Getz: Yes. We can't answer the rest of these comments tonight until we do more work.

Mr. Astorino: Right.

Mr. McConnell: Dave, if you could get a copy of the survey and find out how old it is that references that shows the 2<sup>nd</sup> pond, that would be appreciated.

Dave Getz: Yes.

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

Mr. Bollenbach: I have just one comment. This property had been subdivided in 1991. There are maps of that area including topography maps. Laura has taken a look at those maps.

Mr. Astorino: Let us see what was there and done before we get to much further into this. Again, we will list comments 3 through 37 for the record. Just to let you know, John Batz has issued a violation on this property. You will need to keep moving very diligently on this matter.

Dave Getz: Yes. Right.

Connie Sardo: Dave, please keep me up to date on this project.

Dave Getz: Ok.

Mr. Astorino: Laura, you will contact the DEC.

Laura Barca: Yes.

Dave Getz: Thank you.

Comment #3: Conservation Board comments:

- a. How many trees were cleared?
- b. To what extent was grading & excavating conducted?

Comment #4: Architectural Review Board comments: No comments submitted (08/28/10).

Comment #5: OC Planning Department: (pending submittal)

Comment #6: The Planning Board may want to consider a site inspection (in the evening to look at the lighting)?

Comment #7: The septic system is described as being located on 49-1-90, but it does not appear to be shown; the location of the septic system should be shown on the plan sheet.

Comment #8: The standards notes for the Aquifer and Agricultural Protection Overlays should be shown on the drawing.

Comment #9: Is there a shared driveway agreement for the shared driveways on lots 49-1-89 and 49-1-90; both are owned by Dr. & Mrs. McCain?

Comment #10: What is the source of the water for the ponds?

Comment #11: Is there a clay/bentonite/montmorillonite layer beneath the pond? How was the pond constructed to ensure stability of the structure?

Comment #12: Is there any maintenance associated with these manmade ponds?

Comment #13: What is the depth of the ponds?

Comment #14: What is the capacity of the pond (in million gallons)?

Comment #15: Is the lawn area around the ponds planned to be fertilized? Excess nutrients could run off the lands and into the ponds causing algal blooms, especially during warm weather.

Comment #16: Are algaecides proposed to be used?

Comment #17: There is a Federal wetland (PF01A) that is located on tax lot 49-1-89; the Applicant should investigate and determine if this wetland is located within tax lot 49-1-90 and/or within 100-ft of the area of disturbance.

Comment #18: The disturbed area around Pond B does not appear to be included in the 3.7 acres calculation of disturbed area.

Comment #19: For what purpose was the area in rear of the lot cleared?

Comment #20: Since more than 1-acre of land was disturbed (3.7 acres), a NYSDEC general stormwater permit would be required.

Comment #21: If the streambed of Wawayanda Creek was disturbed, a USACE permit will be required.

Comment #22: If the streambed or within 50-ft of Wawayanda Creek was disturbed, a NYSDEC Article 15 and protection of waters permit would be required.

Comment #23: Was the overall elevation raised or lowered to install the pond (e.g., was an embankment created)?

Comment #24: There is a FEMA floodplain associated with a portion of this project. This floodplain should be shown on the drawing.

Comment #25: A portion of this project was conducted in a Zone AE floodplain, which means that a Floodplain Development Permit must be issued from the Building Inspector. The Applicant should prepare an application in accordance with §89-4.3, as appropriate,

and submit to the Planning Board for review prior to submitting to the Building Inspector.

Comment #26: If ponds are considered the same as pools, then the following setbacks apply: 15-ft rear yards, side yards, and dwelling; 20-ft for active wells, septic or leach field; no "pools" are allowed in front yards. Variances may be required for side yard setbacks.

Comment #27: The well and septic system on Lot 49-1-34.2 must be shown to ensure that both are greater than 20-ft away (building department requirements).

Comment #28: The NYSDOH separation distance requirements between a stream and various parts of the septic system must be shown on the drawing.

Comment #29: Where are the outfalls for both ponds; this information should be indicated on the plan.

Comment #30: If excavation was conducted, where were the excavated materials disposed?

Comment #31: The biodiversity overlay shall be added to the protection overlay areas on Sheet 1 of 1, including whether or not the project is including within this area.

Comment #32: According to §150, over 0.25-acre is not allowed to be cleared without approval from the Town; the amount of area disturbed was approximately 3.7 acres.

Comment #33: Although it is understand that some of the lighting concerns have already been addressed by the Applicant, the project area must be in compliance with §164-43.4. If the security lights have already been placed on motion sensors, a note must be added to the plan.

Comment #34: All exterior lighting must be in compliance with the Town Code, which means that all lighting must be shielded and glare must be minimized. Are isometric line drawings are available for the existing condition?

Comment #35: The declaration information for the Aquifer and Agricultural Protection Overlays must be shown on the plan prior to the Chairman's signature.

Comment #36: Surveyor to certify that iron rods have been set at all property corners.

Comment #37: Payment of all fees.

***BCM Sectionalizing Plan***

Application for Preliminary Approval for filing a 42 Lot subdivision in Sections and Application for Final Approval for Section I to consist of a proposed 12-Lot subdivision, situated on tax parcel S 44 B 1 L 50.224; parcel located along the northerly side of State Highway 17A 500 feet east of Ketchum Road and Pumpkin Hill Road, in the SL zone, of the Town of Warwick, County of Orange, State of New York. Original Conditional Final Approval was granted on, 11/21/07.

Representing the applicant: Tony Ciallella, Applicant.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments (08/29/10):
  - a. Recommends appropriate storage of any excess material to avoid large mounds of moved earth
4. Architectural Review Board (08/28/10):
  - a. Requesting four elevations for proposed model home
5. OC Planning Department – pending submittal
6. A temporary end of the road marker or break-away barrier should be placed to prevent an unfamiliar driver from entering the future Field Court cul-de-sac and/or continuing along Valley Field Court prior to the road being completed.
7. Stormwater references should be updated to GP-0-10-001.
8. If Applicant does not have an NOI from NYSDEC, then the Application should be in compliance with GP-0-10-001.
9. A copy of all permits should be submitted (ie DEC, DOT).
10. It does not appear that the Subdivision Plat for Section 1 shows any concrete monuments, iron pins, or cairns; these should be added to the plat.
11. Sheet 15 of 15 is labeled Sheet 19 of 19; the page number should be corrected.
12. Will large amounts of soil need to be stored and/or brought in as a result of the sectioning of this plan? There is one stockpile area shown on Phase 1.
13. The erosion control measures around on the stockpile area are not consistent on the plan (Sheet 9) and in the details (Sheet 10); the plan and details should be consistent.
14. On sheet 8 of 15, the dry swale detail has a 2-ft bottom flat width and the road section detail shows a 1-ft sloped bottom width; these swale details should be consistent.
15. A landscaping plan was not included for the Section 1 Plan.
16. **Attachment 1** is the Town's letter dated November 22, 2007 listing the conditions of Conditional Final Approval. **Attachment 2** is a letter from the Applicant's Engineer dated February 16, 2010 identifying the status of each condition.
17. The existing declarations will be reviewed to ensure that the sectioning of this project did not affect the language in the declarations.
18. Surveyor to certify that iron rods have been set at all property corners.
19. Payment of parkland fees.
20. Payment of all fees.

The following comment submitted by the Conservation Board, dated 9/1/10:

BCM Sectionalizing Plan – The CB recommends appropriate placement/storage of excess fill to avoid large mounds of moved earth.

The following comment submitted by the ARB, dated 9/1/10:

BCM Sectionalizing Plan - The ARB requested elevations of the proposed homes for BCM several years ago. We received one facade at that time, but it was much larger than the proposed homes on the project.

We would like to see all four elevations for each proposed model in the development prior to receiving approval to sectionalize.

Mr. Astorino: Before we start, I want to address for the record that we have received 4-letters regarding this application from as follows: Letter from Phyllis Briller, dated 8/31/10, Email Letter from Marie and Jerry Rubenstahl, dated 8/31/10, Email Letter from William Murnion, dated 8/31/10, and Email Letter from Rosella Schaefer, dated 8/31/10. In their letters, they are all requesting to have a public hearing on this project. It is in the Code for Sectioning that this project has not changed and it will not change from the original final approval that was granted by this Board previously. As far as the utilities, infrastructure, it all remains the same to these lots. There will be an emergency access turnaround that will be shown on the plan. The stormwater facilities will remain the same. That is why the Board determined that there is no need to have a public hearing on this sectionalizing plan because nothing will be changing from the original final approval. This project is just going to be done in sections. Correct me if I am wrong, once this section is completed, it would be able to function on its own.

Laura Barca: Correct.

Tony Ciallella: Correct.

Mr. Astorino: Do any Board members or Professionals have anything that you might want to add?

Mr. Singer: Mr. Chairman, in part of BCM's approval process, we had asked them what would the houses look like on this site and how many square feet would each house be? We were given pictures of the houses and the number of the square-footage. I was wondering if that was still going to be the same as to what was submitted or would that be different?

Tony Ciallella: It is going to be somewhat to the pictures that we had provided. Once I get my plans developed, I believe there is a request in here requesting elevations for the proposed model home. I don't have a problem providing the elevations of the model home and the elevations of the interior on what it would look like. I would like to mimic what Warwick Grove is doing and the pictures I submitted to you. I want to do some classic architectural elevations. Carl, that is the plan.

Mr. Astorino: Why don't you submit those before you obtain a building permit?

Tony Ciallella: Absolutely. I planned on doing that anyway.

Mr. Astorino: Ok.

Comment #1: Planning Board to discuss SEQRA.

Comment #2: Applicant to discuss project.

Tony Ciallella: Ben, you had summed that up already. Nothing will be changed. All we are doing is breaking up the subdivision into sections according to the Code.

Comment #3: Conservation Board comments (08/29/10):

- a. Recommends appropriate storage of any excess material to avoid large mounds of moved earth

Mr. Astorino: Laura, you are already on top of that as far as stockpiling.

Laura Barca: Yes.

Tony Ciallella: If you look at the road profile, we would be able to balance the road. I did not want to cut Section 3 road, but because of the drainage, we are going to cut it. Whatever cuts that come out of Section 1 and Section 3 will fill the road of Section 2. I think it will be pretty much balanced. It won't be perfectly balanced, but it would be balanced pretty close.

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

Laura Barca: Yes. I agree.

Comment #4: Architectural Review Board (08/28/10):

- a. Requesting four elevations for proposed model home

Mr. Astorino: We will make that a comment in our comments to have the architectural drawings before a building permit is issued.

Comment #5: OC Planning Department – pending submittal

Mr. Bollenbach: Nothing has changed on this. The Planning Board can supersede OCPL.

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

Tony Ciallella: We will meet with Laura and DPW on that. It is a field. It might be a little difficult. We could come up with something like a picket fence.

Mr. Astorino: They have those breakaway barriers up by Jarmain Road where they could be placed in and fold over. They are brightly reflected where you could see them at night.

Tony Ciallella: We will do whatever you would like.

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

Laura Barca: That is the new DEC stormwater permit number.

Comment #8: If Applicant does not have an NOI from NYSDEC, then the Application should be in compliance with GP-0-10-001.

Laura Barca: Right.

Comment #9: A copy of all permits should be submitted (ie DEC, DOT).

Tony Ciallella: Correct. Ok.

Mr. Astorino: Laura, make sure that every permit is in hand.

Laura Barca: Yes.

Comment #10: It does not appear that the Subdivision Plat for Section 1 shows any concrete monuments, iron pins, or cairns; these should be added to the plat.

Tony Ciallella: Dave will make sure those plans are consistent.

Laura Barca: Ok.

Comment #11: Sheet 15 of 15 is labeled Sheet 19 of 19; the page number should be corrected.

Tony Ciallella: No problem.

Comment #12: Will large amounts of soil need to be stored and/or brought in as a result of the sectioning of this plan? There is one stockpile area shown on Phase 1.

Tony Ciallella: Correct.

Comment #13: The erosion control measures around on the stockpile area are not consistent on the plan (Sheet 9) and in the details (Sheet 10); the plan and details should be consistent.

Tony Ciallella: No problem.

Comment #14: On sheet 8 of 15, the dry swale detail has a 2-ft bottom flat width and the road section detail shows a 1-ft sloped bottom width; these swale details should be consistent.

Tony Ciallella: No problem.

Comment #15: A landscaping plan was not included for the Section 1 Plan.

Mr. Bollenbach: Add to that comment, provide to the Town Planner's specifications.

Mr. Astorino: You will need to provide a landscaping plan. I think we have that.

Tony Ciallella: It is not changing.

Mr. Astorino: We need it for that section.

Laura Barca: We need to know exactly what you would be planting.

Tony Ciallella: Ok.

Laura Barca: You should have on the plan a schedule of what would be planted.

Tony Ciallella: Ok.

Mr. Bollenbach: We will add to that comment, provide a landscape plan and bond.

Tony Ciallella: Could I just draw a line on that map around Section I?

Laura Barca: As long as there is a schedule that goes with it.

Tony Ciallella: Ok. Will do.

Mr. Astorino: Just have that on a separate sheet. We will also add a 3-year landscape bond to that.

Tony Ciallella: Ok. No problem

Comment #16: **Attachment 1** is the Town's letter dated November 22, 2007 listing the conditions of Conditional Final Approval. **Attachment 2** is a letter from the Applicant's Engineer dated February 16, 2010 identifying the status of each condition.

Mr. Astorino: Laura, is that for your reference?

Laura Barca: Right. That is also there so that the Board is aware of what the conditions were when the original conditional final approval was granted. It is also to make the applicant aware of those conditions.

Tony Ciallella: Those conditions still apply.

Laura Barca: Would all of those original conditions be satisfied as part of Section I? John, do all of those conditions have to be satisfied at this point or not?

Mr. Bollenbach: That is something we would have to go through. We will add that comment as a #21.

Comment #17: The existing declarations will be reviewed to ensure that the sectioning of this project did not affect the language in the declarations.

Tony Ciallella: Ok.

Comment #18: Surveyor to certify that iron rods have been set at all property corners.

Tony Ciallella: Ok.

Comment #19: Payment of parkland fees.

Tony Ciallella; Ok.

Comment #20: Payment of all fees.

Tony Ciallella; Ok.

Mr. Bollenbach: We will add a comment #21. Comment #21 will read as follows: *Subject to attached conditions of Original Conditional Final Approval granted on 11/21/07 including an Amended Water Agreement with the Town Board.* I don't want to have it mutually exclusive. There have been other ones. I really want to set them forth in full.

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

Mr. Fink: The other one was the improvements to Ketchum Road and Pumpkin Hill Road. There was supposed to be some stripping that was to be done.

Mr. Astorino: Yes. That has to be done before.

Mr. Fink: I didn't see a note in the plans or in the conditions.

Mr. Astorino: But, they also have to follow through with the original conditional of final approval before hand. We will also make sure those conditions will be listed on here. Ted, I agree with you.

Mr. Fink: Ok.

Mr. Singer: What is this amended water agreement that John is talking about? Has it been amended already?

Mr. Bollenbach: No. It hasn't been amended yet. It is in progress and negotiation with the applicant and the Town Board concerning the timing of infrastructure improvements and the interconnection of the proposed well from the BCM property with the Bellvale Water District and posting a bond, etc...

Mr. Singer: OK.

Tony Ciallella: The condition of final approval I think pretty much will be met.

Laura Barca: I think so to.

Tony Ciallella: I think they are mostly housework and cleanup work in terms of deeded declaration, fees, and permits. We do have most of them resolved.

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

Mr. Bollenbach: We will add a comment #22. Comment #22 is to read as follows:  
*Provide Map Note – Re: Timing of Ketchum Road and Pumpkin Hill Road Improvements.*

Mr. McConnell makes a motion to waive the Preliminary Public Hearing.

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

Mr. Kowal makes a motion on the BCM Sectionalizing Plan, granting Preliminary Approval for filing a 42-Lot subdivision in Sections, situated on tax parcel S 44 B 1 L 50.224; parcel located along the northerly side of State Highway 17A 500 feet east of Ketchum Road and Pumpkin Hill Road, in the SL zone, of the Town of Warwick, County of Orange, State of New York.

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

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

Mr. Bollenbach: As it was previously stated, there is no additional SEQR action and no additional impacts. It is really the same plan that was previously approved. There are no substantial changes.

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

Mr. Showalter makes a motion on the BCM Sectionalizing Plan, granting Final Approval for filing a 42-Lot subdivision in Sections. Section I to consist of a proposed 12-Lot subdivision, situated on tax parcel S 44 B 1 L 50.224; parcel located along the northerly side of State Highway 17A 500 feet east of Ketchum Road and Pumpkin Hill Road, in the SL zone, of the Town of Warwick, County of Orange, State of New York. Original Conditional Final Approval was granted on, 11/21/07. Final Approval subject to the following conditions:

1. Provide four elevations for proposed model home prior to Building Permit.
2. A temporary end of the road marker or break-away barrier should be placed to prevent an unfamiliar driver from entering the future Field Court cul-de-sac and/or continuing along Valley Field Court prior to the road being completed.
3. Stormwater references should be updated to GP-0-10-001.
4. If Applicant does not have an NOI from NYSDEC, then the Application should be in compliance with GP-0-10-001.
5. A copy of all permits should be submitted (ie DEC, DOT).
6. It does not appear that the Subdivision Plat for Section 1 shows any concrete monuments, iron pins, or cairns; these should be added to the plat.
7. Sheet 15 of 15 is labeled Sheet 19 of 19; the page number should be corrected.
8. Will large amounts of soil need to be stored and/or brought in as a result of the sectioning of this plan? There is one stockpile area shown on Phase 1.
9. The erosion control measures around on the stockpile area are not consistent on the plan (Sheet 9) and in the details (Sheet 10); the plan and details should be consistent.
10. On sheet 8 of 15, the dry swale detail has a 2-ft bottom flat width and the road section detail shows a 1-ft sloped bottom width; these swale details should be consistent.

11. A landscaping plan 3-Year Landscape Maintenance and Bond was not included for the Section 1 Plan. Provide to Town Planner's specifications.
12. The existing declarations will be reviewed to ensure that the sectioning of this project did not affect the language in the declarations.
13. Surveyor to certify that iron rods have been set at all property corners and stone cairns at corners of open space.
14. Payment of Parkland Fees.
15. Payment of all fees.
16. Subject to attached conditions of Original Conditional Final Approval granted on 11/21/07 including an Amended Water Agreement with the Town Board:
  1. *The NYSDEC Freshwater Wetland Boundary Validation stamp on sheet 2 requires DEC Staff signature and P.L.S. seal.*
  2. *Note on the plans that a design for the larger arch culverts proposed for Valley Field Lane and Meadowbrook Lane signed and sealed by a NYSPE and shop drawings must be submitted for review and approval by the Town Engineer before construction of the culverts or delivery of any of the culvert components may commence.*
  3. *Per revised §A168-10D, testing of the road sub-grade and design of the pavement is required prior to construction.*
  4. *Revise the Road Cross-Section (sheet 12) per revised §A168-11 & 21A, B, D, & E.*
  5. *The label "300' Bog Turtle Terrestrial Habitat Line" should be made bold on the Landscape Plan. Complete and submit to the Town Planner the Planner's checklist showing satisfaction of ecological protection requirements.*
  6. *Revise Landscape Plans to Town Planner's specifications.*
  7. *Revise Model Home and Water District Notes per the Planning Board Attorney's specifications.*
  8. *Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, Stormwater Management Facilities Maintenance Agreement Notes, Open Space Conservation, Homeowner's Association, Model Home and Water District Notes, Wetland Stewardship Guidelines and Visual Mitigation Notes to Planning Board Attorney's specifications.*
  9. *Surveyor to certify that iron rods have been set at all property corners and that iron rods or stone cairns have been set at corners of open space, to the Town Engineer's specification.*
  10. *Town Board to approve Water and Drainage Districts and Offers of Dedication for Water Facilities and Infrastructure Improvements.*
  11. *Applicant to propose an Open Space Monitor for Planning Board Approval along with a One Year Employment Contract.*
  12. *Pay Parkland Fees.*
  13. *Pay Construction Inspection Fee and Performance Bond for Town Roads, Stormwater Management Facilities, and Erosion Control.*
  14. *Pay Landscape Maintenance Bond (three-year term) for screening plantings and hydric plantings at stormwater management facilities.*
  15. *Pay Outstanding Review Fees.*
- 17) Provide Map Note – Re: Timing of Ketchum Road and Pumpkin Hill Road Improvements.

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

Tony Ciallella: Thank you.

***John G. Pennings***

Application for "***Amended***" Final Approval of a proposed 3-Residential Lots + 1-Commercial Lot subdivision and Lot Line Change, situated on tax parcel S 63 B 1 L 1.22 & 51-2-26.21; parcel located on the corner of Pennings Lane and Hoyt Road, in the DS/RU zones, of the Town of Warwick. Original Conditional Final Approval was granted on, 7/21/10.

Representing the applicant: John McGloin, PLS. Al Lipman, Attorney.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: No comments, letter dated 08/29/10
4. Architectural Review Board comments: No comments, letter dated 07/21/10
5. OC Planning Department: GML letter dated 02/11/10 with no advisory comments.
6. Surveyor to certify that iron rods have been set at all property corners.
7. Proposed Lot 5 needs an access easement over Lot 1.
8. In addition to the access easement for Lot 2 over Lot 1, Lot 1 needs an easement over Lot 2 to continue to use the existing farm road.
9. Easement descriptions and proper documentation for the future marginal access road must be submitted.
10. The declaration information for the Ridgeline Overlay District, Aquifer Protection Overlay District, and Agricultural Overlay District will need to be shown on the plan.
11. Payment of parkland fees.
12. Payment of all fees.

The following comment submitted by the Conservation Board, dated 9/1/10:

John G. Pennings – The CB has no comments.

The following comment submitted by the ARB, dated 9/1/10:

John G. Pennings – The ARB has no comments.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board had previously issued a Negative Declaration on this application. Because of the change that was proposed to it, the applicant had provided an updated EAF. In reviewing the EAF, it doesn't appear to be any increase in impacts. There is no need to amend the Negative Declaration.

Comment #2: Applicant to discuss project.

John McGloin: It is the same submission that was previously approved. The only thing we are doing is adding the adjoining tax lot to facilitate going through the PDR process by

making it one lot instead of two separate lots. We will be cutting off the commercial lot completely along with the future marginal access road.

Comment #3: Conservation Board comments: No comments, letter dated 08/29/10

Comment #4: Architectural Review Board comments: No comments, letter dated 07/21/10

Comment #5: OC Planning Department: GML letter dated 02/11/10 with no advisory comments.

Comment #6: Surveyor to certify that iron rods have been set at all property corners.

John McGloin: Will do.

Comment #7: Proposed Lot 5 needs an access easement over Lot 1.

Mr. Lipman: Correct. I think we will do it in the form of a declaration. We can't grant an easement to ourselves.

Mr. Bollenbach: Correct.

Comment #8: In addition to the access easement for Lot 2 over Lot 1, Lot 1 needs an easement over Lot 2 to continue to use the existing farm road.

Mr. Lipman: Same answer as to comment #7.

Comment #9: Easement descriptions and proper documentation for the future marginal access road must be submitted.

Mr. Lipman: Do you want an offer of dedication in escrow for that parcel which would be encumbered by the same easements that we just talked about creating? I would do it in the same fashion as what I had done with the Farm Market.

Mr. Bollenbach: That is fine.

Comment #10: The declaration information for the Ridgeline Overlay District, Aquifer Protection Overlay District, and Agricultural Overlay District will need to be shown on the plan.

Mr. Lipman: Yes.

Comment #11: Payment of parkland fees.

Mr. Bollenbach: We could strike comment #11. That was previously referred to the Town Board. That was done on the original conditional final approval.

Comment #12: Payment of all fees.

Mr. Lipman: Yes.

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

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

Mr. Showalter makes a motion on the John G. Pennings application, granting “*Amended*” Final Approval for a proposed 3-Residential Lots + 1-Commercial Lot subdivision and Lot Line Change, situated on tax parcels S 63 B 1 L 1.22 and S 51 B 2 L 26.21; parcels located on the corner of Pennings Lane and Hoyt Road, in the DS/RU zones, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on **July 21, 2010**. Original Conditional Final Approval was granted on, 7/21/10. “Amended” Approval is granted subject to the following conditions:

1. Surveyor to certify that iron rods have been set at all property corners.
2. Proposed Lot 5 needs an access easement over Lot 1.
3. In addition to the access easement for Lot 2 over Lot 1, Lot 1 needs an easement over Lot 2 to continue to use the existing farm road.
4. Easement descriptions and proper documentation for the future marginal access road must be submitted.
5. The declaration information for the Ridgeline Overlay District, Aquifer Protection Overlay District, and Agricultural Overlay District will need to be shown on the plan.
6. Payment of all fees.

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

John McGloin: Thank you.

***Charles and Viviana Holmes***

Application for Site Plan Approval for the construction and use of alterations and addition to an existing single-family residence located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 75 B 1 L 8.2; project located on the eastern side of Lake Shore Road 1200 feet north of Jersey Ave (76 Lake Shore Road), in the SM zone, of the Town of Warwick. Previously discussed at the 7/21/10 Planning Board Meeting.

Representing the applicant: Bob Krahulik, Attorney. Charles & Viviana Holmes, Applicants.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments (08/29/10):
  - a. Where is catch basin discharge?
    - i. Town responsibility
  - b. Increase in impervious area?
    - i. No increase.
  - c. Recommend testing of septic system.
    - i. Dye test will be completed.
4. Architectural Review Board comments (07/18/10):
  - a. Photograph of existing home.
    - i. Complete.
  - b. Photograph of surrounding & adjacent properties.
    - i. Complete.
  - c. Obliques, as provided on the County webpage.
    - i. No image available.
  - d. Elevations of all four sides of structure.
    - i. See architectural plans
  - e. State whether the basement is walk-out or not.
    - i. It is a walk-out basement.
  - f. Samples of proposed materials.
    - i. See descriptions on Sheet A-1
5. Greenwood Lake Commission Comments (08/28/10):
  - a. Recommend testing of septic system.
    - i. Dye test will be conducted.
  - b. Is septic functioning as drainage field?
    - i. Dye test will be conducted.
  - c. How will stormwater from rooftop be managed?
    - i. Incomplete.
6. A dye test will need to be completed and witnessed by the Town Planning Board Engineer or one page form signed/sealed by a professional engineer.
7. The use group is not shown on the plans.
8. The information on the neighbors within 300-ft is not shown on the plan (e.g., address and section-block-lot).
9. After the site inspection, the planning board has the option to waive the requirement for contours on the site plan.

10. Payment of all fees.

The following comment submitted by the Conservation Board, dated 9/1/10:

Charles & Viviana Holmes - The CB has several questions. Is the catch basin runoff emptying directly into the lake? How much of an increase will there be to the impervious surface area? Where will the septic system be located? The CB recommends testing of the septic system. A member of the CB will attend the planned site visit.

The following comment submitted by the ARB, dated 9/1/10:

Charles & Viviana Holmes - The ARB would like to reserve the right to comment on this after attending the site visit on 8/30. We understand that the applicant is attempting to respect the maximum heights as outlined in the zoning codes, but feel that the proposal as presented could be improved.

Comment#1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has already declared itself Lead Agency on this application. There are several comments in the review comments that relate to SEQR. We are in the process of collecting information.

Comment #2: Applicant to discuss project.

Bob Krahulik: This application involves alterations to an existing home located on Greenwood Lake in a Designated Protection Area. We are proposing to increase the height on the ceiling and the roof of the top floor of the home. We will not be constructing outside the existing footprint of the building. The Planning Board had done a site visit on Monday night. You are familiar with the property and project.

Laura Barca: Just to clarify something, are you only increasing the interior height of the ceiling and not increasing the height of the overall building?

Bob Krahulik: No. That is not true.

Mr. Astorino: That is not true. It is only increasing a few inches. It won't even be noticeable.

Charles Holmes: It is increasing less than 6".

Laura Barca: Ok. It will still be less than the required 35'.

Mr. Astorino: Yes.

Comment #3: Conservation Board comments (08/29/10):

- a. Where is catch basin discharge?
  - i. Town responsibility
- b. Increase in impervious area?
  - i. No increase.
- c. Recommend testing of septic system.

- i. Dye test will be completed.

Comment #4: Architectural Review Board comments (07/18/10):

- d. Photograph of existing home.
  - i. Complete.
- e. Photograph of surrounding & adjacent properties.
  - i. Complete.
- f. Obliques, as provided on the County webpage.
  - i. No image available.
- g. Elevations of all four sides of structure.
  - i. See architectural plans
- h. State whether the basement is walk-out or not.
  - i. It is a walk-out basement.
- i. Samples of proposed materials.
  - i. See descriptions on Sheet A-1

Comment #5: Greenwood Lake Commission Comments (08/28/10):

- j. Recommend testing of septic system.
  - i. Dye test will be conducted.
- k. Is septic functioning as drainage field?
  - i. Dye test will be conducted.
- l. How will stormwater from rooftop be managed?
  - i. Incomplete.

Mr. Astorino: Are you going to have gutters?

Viviana Holmes: Yes.

Comment #6: A dye test will need to be completed and witnessed by the Town Planning Board Engineer or one page form signed/sealed by a professional engineer.

Mr. Astorino: Good.

Comment #7: The use group is not shown on the plans.

Bob Krahulik: We will add that to the plans.

Comment #8: The information on the neighbors within 300-ft is not shown on the plan (e.g., address and section-block-lot).

Bob Krahulik: We will add that to the plans.

Comment #9: After the site inspection, the planning board has the option to waive the requirement for contours on the site plan.

Mr. Astorino: Does the Board agree with that?

Mr. Showalter: Yes.

Mr. Astorino: Ok.

Comment #10: Payment of all fees.

Bob Krahulik: Yes.

Mr. Bollenbach: Let us go back to Comment# 5C, which states how will stormwater from rooftop be managed? I don't think they are just talking about gutters. Perhaps there should be some rain gardens or some other infiltration mechanism.

Mr. McConnell: As I recall from the site visit, the representative from the GWL Commission was concerned about runoff drainage and so on. He wanted to know how it was handled now and if there would be any change to that.

Mr. Bollenbach: That could be something that the Board might want to consider.

Mr. Astorino: Mr. Holmes, what do you have going on now?

Charles Holmes: We have gutters that go underground and out to the garden area.

Mr. Astorino: You will need to show that on the plans.

Charles Holmes: Ok.

Mr. McConnell: I am not sure here given the answer to question #5B addresses question B.

Mr. Astorino: What is that?

Mr. McConnell: Is septic functioning as drainage field? It says a dye test would be conducted. That doesn't seem to answer the question.

Mr. Astorino: It is going to function as a septic.

Mr. McConnell: I am not sure that this completely captures what it was the Commissioner was asking.

Mr. Astorino: Essentially, the GWL Commissioner is asking if the septic would function properly. I would assume that. What other question would they have?

Mr. McConnell: How about the runoff from the catch basin?

Mr. Astorino: That was a separate question.

Mr. McConnell: I understand that. What I am saying is that I don't think these questions match to what I remember what the questions were. I just want to make sure we adequately address the GWL Commission's questions.

Mr. Astorino: It seems to me that the GWL Commission is asking if the septic would function properly.

Mr. McConnell: Right. That would be the dye test.

Mr. Astorino: The second thing is that they are worried about the catch basin, which was mentioned at the site. It is on the side of the Town Road, which was installed by the Town of Warwick some time ago.

Mr. McConnell: I think his concern there was runoff going into the lake.

Mr. Astorino: What I mentioned to GWL Commission was that they would have to contact the Town Board about those phosphorus filters. That would have to be a decision from the Town Board on whether they would want to go to that expense. Does the Board or Professionals have any other questions? Does the Board want to set this application for a public hearing?

**Mr. McConnell makes a motion to set the Charles and Viviana Holmes application for a Public Hearing at the next available agenda.**

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

Bob Krahulik: Thank you.

**Other Considerations:**

1. Planning Board to discuss cancelling the 9/6/10 Work Session & 9/15/10 Planning Board Meeting due to the Labor Day Holiday.

Mr. McConnell makes a motion to cancel the 9/6/10 Work Session & 9/15/10 Planning Board meeting.

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

2. **Planning Board Minutes of 8/4/10** – Planning Board Minutes of 8/4/10 for Planning Board's Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 8/4/10.

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

**Correspondences:**

1. Letter from David K. Gordon, Attorney, dated 8/17/10 addressed to the Planning Board – in regards to the Warwick Views Subdivision.
2. Letter from Linda Francis, dated 8/19/10 addressed to the Planning Board – in regards to the Warwick Views Subdivision.
3. Letter from Phyllis Briller, dated 8/31/10 addressed to the Planning Board – in regards to the BCM Subdivision.
4. Email Letter from Marie & Jerry Rubenstahl, dated 8/31/10 addressed to the Planning Board – in regards to the BCM Subdivision.
5. Email Letter from William Murnion, dated 8/31/10 addressed to the Planning Board – in regards to the BCM Subdivision.
6. Email Letter from Rosella Schaefer, dated 8/31/10 addressed to the Planning Board – in regards to the BCM Subdivision.

Mr. Astorino: We have correspondences 1 through 6 in our packets.

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

Mr. Astorino: If there is anyone in the audience wishing to address any of the agenda items, please rise and state your name for the record.

Phyllis Briller: I have two questions with respect to BCM and the model home to be built which I understand would be off Ketchum Road. Would there be water provided to this model home?

Mr. Astorino: They might potentially dig a well. That is yet to be determined. If they do dig a well, it would have to be abandoned when the water system goes in for Section I. I don't know what their exact plans are.

Mr. Kowal: Didn't we talk about some type of a temporary storage tank?

Mr. Astorino: That would only be if no one lives there. Just for the model home to show the house, they might put in a temporary storage tank to flush the toilets and have water to wash your hands. If they sell that model, they could put in a well by code. But, once Section I water is hooked up, that well would have to be abandoned according to OCHD.

Phyllis Briller: You have given the final approval, but you really don't know the details.

Mr. Astorino: We do know the details. They have an option to put in a well. It is in the code. They could put a well in there. That will be on the final plan.

Mr. Singer: They can't get a C of O unless they put the well in.

Mr. Astorino: If they do decide to put the well in, that would be at their own option and expense. They know that well would have to be abandoned. That is already on the final plans.

Phyllis Briller: Ok. What about the septic system?

Mr. Astorino: The septic system would have to be built.

Phyllis Briller: They would have to do that before they would get the C of O.

Mr. Astorino: Yes. The infrastructure has to be in place before they could do anything. They can't build a model home without the septic. They would have to tie into the septic, which would stay there regardless.

Phyllis Briller: Ok. What I have been getting is a lot of third party scuttle.

Mr. Astorino: Whatever was on the final approved plans, they have to do.

Phyllis Briller: Ok. They would have to put in a septic. The holding tank that you spoke of is a water tank not a septic tank.

Mr. Astorino: Right. They cannot get a C of O with a water tank. That would be something for them to be able to flush a toilet and wash their hands in the model home. They would have to make the decision if they would want to spend \$6,000. or \$7,000. for a well and then 6 months to a year down the road abandon it.

Mr. Singer: I don't know if we could force them to abandon it once they have built it.

Mr. Astorino: Yes. We could do that. They would have to hook into the Water District. That is not an option.

Mr. Bollenbach: The County requires that.

Mr. McConnell: Whether they put in the well and so on would may be determine how far long they are.

Mr. Astorino: Exactly. It would be their call.

Phyllis Briller: So, the tank that you are speaking of, is that for water or septic?

Mr. Astorino: It is for water. The septic has to be a regular system.

Phyllis Briller: Ok. Thank you.

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

**Mr. Showalter makes a motion to adjourn the September 1, 2010 Planning Board meeting.**

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