

TOWN OF WARWICK PLANNING BOARD

September 17, 2008

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, September 17, 2008 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF Cardiac Care Systems, Inc.

Application for Preliminary Approval of a proposed 7-Lot plus 1-Lot of Open Space Conservation Density Subdivision, entitled, "*Cascade Road Subdivision*", situated on tax parcel S 53 B 1 L 8; parcel located on the northerly side of Cascade Road 710± feet east of Cascade Park Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Abe Chitsaz from Zimmerman Engineering.

Connie Sardo: Mr. Chairman, I have just received the certified mailings for the Cascade Road Subdivision public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Board to discuss site visit.
4. Provide calculations for rip rap sizing for the pipe coming into the forebay. Also revise the peak flow used to size the rip-rap in worksheet under Appendix G. Note that these items should be sized for the 10-year storm event.
5. Proposed culverts should be sized for 10-year storm event. Revise worksheet under Appendix F.

BEFORE FINAL APPROVAL:

6. Provide 9-1-1 addressing.
7. Provide a signed copy of the NOI. Applicant to provide signed and sealed copy of the final revised SWPPP.
8. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at the corners of conservation areas, as directed by the Town Engineer.
9. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Radon Reduction Notes.

10. Provide the declaration and the recording information on the plan for Common Driveway and Private Road and Drainage Use and Maintenance Agreement.
11. Pay performance bond and construction inspection fee for private road, stormwater management facilities, and erosion control.
12. Pay parkland fees.
13. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 9/17/08:

Cascade Road Subdivision – The CB has no comments

The following comment submitted by the ARB:

Cascade Road Subdivision – None Submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application using the full EAF. We have asked for a number of additional studies from the applicant. We have received those additional studies from the applicant. We had asked for a viewshed analysis. The applicant has provided that to us. The area was identified within a Bio-Diversity Conservation area. We asked for a habitat investigation. The applicant has provided us with that. It is a proposed conservation density subdivision. The proposed subdivision will result in a significant amount of protected open space. There also has been discussions about trail connections through the property. There are wetlands on the property. Those wetlands have been identified and delineated. Those are the primary SEQR issues. Before SEQR could be concluded, we have received some preliminary comments from the O.C. Department of Planning. The last comment letter that we received from them had indicated that it represented preliminary comments. The applicant has agreed to provide the O.C. Planning Department with updated information that has been provided under SEQR. At that time, the County has indicated that they would complete their final review.

Mr. Astorino: The County has not finished their review yet.

Mr. Fink: Correct.

Comment #2: Applicant to discuss project.

Abe Chitsaz: We have been moving on from the last few workshops, Planning Board meetings, and comments received from the Town Planner and Engineer. Zimmerman Engineering has responded to all the comments. We have updated documents, plans, and reports to be submitted to O.C. Planning Department for their review. That is where we are.

Mr. Singer: Could you tell the public that you are not going to build a medical facility?

Abe Chitsaz: Yes. Cardiac Care Systems, Inc., is the name of the original owner of the property. This project is for a proposed subdivision of 7 single-family houses. It doesn't have anything to do with a medical facility. Cardiac Care Systems are not the developer of this.

Comment #3: Board to discuss site visit.

Mr. Astorino: Did anything strike anyone when we took a walk out there?

Mr. Bollenbach: Does it look like a good layout?

Mr. McConnell: It looks like a good layout. The only concern I had was with the entrance. I wasn't sure where it was on that curb.

Mr. Astorino: Do you mean as far as sight distance?

Mr. McConnell: Yes. That is one thing that we would want to keep an eye on.

Mr. Astorino: The other thing we discussed was if there would be a trail system in there a pull off for some parking.

Mr. Bollenbach: Perhaps, we could have some buffering in there between the proposed dwellings and the trail area.

Mr. Astorino: Where are we with the trail as far as the open space lot and its ownership? I think it was New York/New Jersey or the Appalachian Trail.

Abe Chitsaz: Three parties are involved in that with that regard. The 3 parties are NY/NJ Trail Conservation, the Owner, and the Town. The agreement on this matter is still not quite clear as to the ownership.

Mr. Astorino: We will have to know that before final approval.

Abe Chitsaz: That is still an agreement in process for the Conservation to come up with the final word.

Mr. Astorino: That is still in process.

Mr. Bollenbach: I have been discussing this with the Town. The Town would be willing to hold the title to the property. It is for the applicant to discuss.

Abe Chitsaz: Ok.

Comment #4: Provide calculations for rip rap sizing for the pipe coming into the forebay. Also revise the peak flow used to size the rip-rap in worksheet under Appendix G. Note that these items should be sized for the 10-year storm event.

Abe Chitsaz: No problem.

Comment #5: Proposed culverts should be sized for 10-year storm event. Revise worksheet under Appendix F.

Abe Chitsaz: Yes.

BEFORE FINAL APPROVAL:

Comment #6: Provide 9-1-1 addressing.

Abe Chitsaz: Ok.

Comment #7: Provide a signed copy of the NOI. Applicant to provide signed and sealed copy of the final revised SWPPP.

Abe Chitsaz: Yes.

Comment #8: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at the corners of conservation areas, as directed by the Town Engineer.

Abe Chitsaz: Ok.

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

Abe Chitsaz: Ok.

Comment #10: Provide the declaration and the recording information on the plan for Common Driveway and Private Road and Drainage Use and Maintenance Agreement.

Abe Chitsaz: Ok.

Comment #11: Pay performance bond and construction inspection fee for private road, stormwater management facilities, and erosion control.

Abe Chitsaz: Ok.

Comment #12: Pay parkland fees.

Abe Chitsaz: Ok.

Comment #13: Pay outstanding review fees.

Abe Chitsaz: Ok.

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

Mr. Bollenbach: Is there a dedication strip proposed along the Town road?

Abe Chitsaz: Yes.

Mr. Bollenbach: We will need to add another comment for that. Provide offer of dedication strip for Town Board approval.

Mr. Astorino: This is a public hearing. If there is anyone in the audience wishing to address the Cascade Road subdivision, please rise and state your name for the record.

Maureen Cuddeback: I don't feel like I am sufficiently ready for this meeting tonight. I just received my notification for this a few days ago. I was able to obtain a copy of the plans. It

is a little difficult to understand what Mr. Chitsaz is saying. My neighbors on the road would like to be able to look at it and talk amongst each other. Things on this are going so quickly. I know that you won't be giving approval on this today.

Mr. Bollenbach: This is the public's first opportunity for a public hearing. This is a preliminary public hearing. This public hearing will not be closed. We are still waiting for comments from O.C. Planning Department. This meeting will probably be adjourned for about a month to give ample time to get the information. I just want to let the public know that the public hearing will be kept open to a certain date. We will let you know when that date is. It will give you ample time to come in and review the maps and files.

Maureen Cuddeback: I see that he has 7 homes which are beautifully designed. There is one extra one for conservation. Then, there is something about 73 acres of land that would be for conservation.

Mr. Astorino: That is the extra lot.

Maureen Cuddeback: Does that mean that never again another house would be built?

Mr. Astorino: There will be nothing built on that lot. It will be deed restricted.

Maureen Cuddeback: If this does go further and they built those 7 homes, those houses would be on a lot with more than what is necessary. Could they build another house?

Mr. Astorino: No. There will be no further subdivision.

Maureen Cuddeback: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Cascade Road subdivision?

John Claeys: We live on the last lot which borders my property. The lot behind my property there is a big swamp/pond located there. The beavers have dammed it up. Now there are fishes and ducks in there. The pond comes out to my house. I have another pond at my house. Will there be anything done with the pond that is there? Who will own that?

Mr. Astorino: I don't believe so. I believe that is in the Conservation area. Is that correct?

Zen Wojcik: If it is on his property, it is within the open space. It would stay within the open space.

John Claeys: Who will own that?

Mr. Bollenbach: We had just discussed that previously. The Town would be willing to accept the title to it. There is also the Appalachian Trail Conference and the NJ Conference. That is to be worked out.

Mr. Astorino: That is still in the process of finalizing the details.

Mr. Bollenbach: There will be some type of entity to keep it as open space for trail/park purposes.

John Claeys: Ok. The County Park is there.

Mr. Astorino: Exactly. That is one reason they might be interested in extending this wide vast area.

John Claeys: Yes. I just wanted to make sure nobody touches the conservation area. There are many wild animals living in there. He did have a trapper come in and try to trap the beavers out. They were on my property.

Mr. McConnell: When you say that they were on your property, do you mean the beavers were on your property?

John Claeys: No. The trappers were on my property. They were trapping beavers out. They trapped about 8 beavers.

Mr. McConnell: So, they made a mistake and were on the wrong property.

John Claeys: Yes. It is not posted back there. Everybody goes on everybody's property. It is no big deal. As long as the Conservation is not messing up my property or his property, that is all I am worried about.

Mr. Astorino: Is there anyone else wishing to address the Cascade Road subdivision?

Daryl and Christine Kick from Buttermilk Falls Road come up before the Planning Board to express their concerns about the Cascade Road subdivision.

Daryl Kick: I wanted to know about the uranium mines that are back there. I don't know if you knew about it. I wanted to know if they would be blasting or drilling. There is a lot of mountain up there. I would like to know how many trucks a day would be going out onto Cascade Road.

Mr. Astorino: Do you mean as far as building the construction?

Daryl Kick: Yes.

Christine Kick: We had an issue with trucks out on Cascade Road this past year with mud tracks happening.

Mr. Astorino: They were cited by the Town.

Daryl Kick: What about the mines?

Mr. Bollenbach: They are primarily in the open space area.

Mr. Astorino: In that conservation area, they won't be touching them.

Mr. Bollenbach: Also, regarding comment #9, they would have to provide a declaration. There will be radon reduction notes. Zen, do you want to elaborate on the radon reduction notes?

Zen Wojcik: Because of the geology of Warwick, there are some parts of the Town that are underlain by geological strata that have either radon in them or uranium in them. In this case, it would be uranium. It is a hit or miss kind of proposition. If you drill one well the water could be fine. If you drill another well 50 to 75 feet away from that, that well could have radionuclide in the water. The radon reduction notes just have the property owners as they are doing the well to test it to find out if there is a problem. If there is any radon or radionuclides, there are methods of removing these to safe EPA levels. The notes require people to do that. They have to do that in order to get a C of O and to maintain it.

Mr. Bollenbach: Were there any other precautions for the foundation installation?

Zen Wojcik: It is just basically for the water. It is all carried through the water. Radon comes up as a gas. If we have waterproofing done according to an ASTM standard, that prevents anything coming up through the wells.

Daryl Kick: Should they be drilling first?

Zen Wojcik: They should drill the wells first.

Daryl Kick: Ok.

Christine Kick: Having 7 new houses, that means many new children. Those mines would be open and could create a danger.

Daryl Kick: They are not open.

Christine Kick: Ok. In regards to wells in general, all of us on Buttermilk Falls Road, we all have different depths of our wells. Having 7 new homes going in, those of us who might have shallow wells, would there be any chance that this could affect our water?

Mr. Astorino: It is over a quite vast area. It is not a high density. It is a conservation density subdivision. Zen, were there any water issues?

Zen Wojcik: We asked around to people that we ran into if they had any problems with their water. We did not hear of any problems with the water. If anybody here tonight has a problem, they should tell us.

Christine Kick: We built our house 3 years ago.

Mr. Astorino: Did you have any water issues?

Christine Kick: We did at first. Our well is 450 feet deep because of the water issues that we had. That is one of the reasons why we are concerned.

Mr. Astorino: How many gallons per minute do you get?

Daryl Kick: We don't know off hand right now.

Christine Kick: We were going to have to frack our well at one point. This subdivision is going in right behind our house.

Mr. Astorino: Zen, could you check out the distances?

Zen Wojcik: Yes.

Mr. Bollenbach: Mr. Kick, if you could find some data information for the well logs, please provide that information to the Town.

Mr. Astorino: Yes. That would be helpful.

Christine Kick: There is on our property a 4 x 100 foot slot in the middle of our property because our neighbor Joe Slater his well at one point ran dry. Way back when, they deeded this piece of property down the middle of our property so that they were able to get water. Our neighbor has a shallow well. During the dry season, they had water issues.

Daryl Kick: What about all the rainwater? Where is that going?

Mr. Astorino: They will be putting in some stormwater detention ponds. Zen, could you explain the Stormwater Management?

Zen Wojcik: The State Law requires a development of this size to have a Stormwater Pollution Prevention Plan (SWPPP). That is a management plan for stormwater on the site. That is because this lot area is being developed in two different locations. There are two different types of facilities to be built. One facility is called a dry swale. That has been designed according to the NYSDEC standards. The other facility is a pocket pond. That also has been designed according to the NYSDEC standards.

Christine Kick: As far as traffic on Cascade Road, Cascade Road is a small windy road. We find that when you have the bus traffic and other traffic with these additional 2.5 cars per house on average, would there be any plans for traffic on Cascade Road or a bus schedule?

Zen Wojcik: The traffic is what it is. When these houses are built, there will be more traffic. Cascade Road is well under capacity.

Christine Kick: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Cascade Road subdivision?

Glen and Miriam Muse that live on Cascade Road come before the Planning Board to express their concerns regarding the Cascade Road subdivision.

Glen Muse: What type of houses would there be?

Mr. Astorino: They will be single-family homes.

Glen Muse: I am a site estimator. My wife is my partner. Could I get a complete set of plans?

Mr. Astorino: You could stop at our Planning Department and speak to our secretary.

Glen Muse: Ok. I like to find out how many trucks will be coming out of this subdivision.

Mr. Astorino: It is a 7-lot subdivision. They could build the houses at once or one at a time. It is up to the applicant or the developer.

Glen Muse: How about the road? Does that have to be put in at one time?

Mr. Astorino: The road has to go in first.

Glen Muse: Would that be done all the way?

Abe Chitsaz: We do have a phasing plan that requires the roads to be built one at a time.

Glen Muse: That was another question we had regarding the phasing plan.

Mr. Singer: What he is saying is that there are two roads. They will be built at separate times.

Zen Wojcik: Each road will be built separately.

Glen Muse: What about sight distance?

Mr. Astorino: They will have to meet the requirements.

Zen Wojcik: It meets the requirements of the State.

Glen Muse: Ok. Would they be disturbing more than 5 acres at a time or would they be holding to the 5-acre law?

Zen Wojcik: It will be less than 5 acres at a time including the R.O.W.

Glen Muse: Ok. Regarding rock, do they intend to blast or hammer?

Zen Wojcik: I don't think blasting is intended. We talked about that at the site visit. It is not profitable to blast for a house. That is what they would be doing. They would be removing rock for a house.

Glen Muse: Do you think there will be rock in the R.O.W.?

Zen Wojcik: No. Abe, is the contour of the profile is pretty much the contour of the land?

Abe Chitsaz: Yes. In the notes we have, if blasting is required, it is very small.

Glen Muse: If you do find rock, are you going to process it on site?

Mr. Astorino: No.

Glen Muse: Who is Lead Agency for the wetlands?

Mr. Fink: The Planning Board is Lead Agency.

Glen Muse: Are there wetlands that will be disturbed and then be reestablished somewhere else?

Mr. Astorino: No. They have all been delineated. Ted, is that correct? There are both State and Federal wetlands on the property.

Glen Muse: Does the Town require a bond to care for any damage to Cascade Road which was just repaved?

Mr. Astorino: There will be an entrance bond.

Glen Muse: Before you know it, these old roads take a terrible beating. Two years down the road, they will be patching up a nice paving job that is there now. How far does the bond cover?

Mr. Bollenbach: It is for the access. It is a Town road.

Glen Muse: Is there no bond required for the Town road?

Mr. Bollenbach: No.

Glen Muse: That means the road could get beat up.

Mr. Bollenbach: It has to meet State weight limits.

Glen Muse: I don't like that there is nothing to fix the Town roads. Regarding storm drainage, this pond the basin that will be built, where would the overflow go?

Zen Wojcik: It goes over land in a normal pattern of where the drainage goes right now. We are concentrating a little bit at that point. Calculations have been prepared by the engineer. We look at that. The natural drainage pattern will continue. That is according to the State standard. That is what they want to see. If you don't have a problem right now, you shouldn't have a problem in the future. If you do have a problem now, this would not be a solution.

Glen Muse: I don't have a problem with drainage. I am just asking.

Miriam Muse: We were not informed about the wells. We live right across the street.

Mr. Astorino: Nobody was notified.

Miriam Muse: Ok.

Mr. McConnell: Do you have any problems with your well?

Glen Muse: No.

Miriam Muse: No.

Mr. Astorino: Do you know the gallons per minute of your well?

Glen Muse: I have it at home.

Mr. Astorino: When you come in to get a copy of the map, could you provide that information?

Glen Muse: Yes. We are not opposed to entrepreneurs. Who would take care of the soil erosion control, mud on the road, and stuff like that?

Mr. Astorino: That would be the Building Department. They would have to cite them if there are issues.

Glen Muse: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Cascade Road subdivision? Let the record show no further public comment. We will need to adjourn this public hearing.

Mr. McConnell makes a motion to adjourn the Cardiac Care Systems / Cascade Road Subdivision Public Hearing to the October 15, 2008 Planning Board meeting.

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

Mr. Astorino: To the residents that came out for the Cascade Road Subdivision Public Hearing, this public hearing has been adjourned to the October 15, 2008 Planning Board meeting. This is your notice. There will be no other notices sent. It will not be advertised in the Dispatch.

Mr. McConnell: If you have neighbors that couldn't make it tonight, you might want to tell them that the public hearing will be continued on October 15, 2008.

PUBLIC HEARING OF Church Communities of NY, Inc.

Application for Final Approval of a proposed lot line change, situated on tax parcels S 47 B 1 L 9.21 and S 47 B 1 L 2; parcels located on the eastern side of Bellvale Lakes Road 3,200 feet south of Gibson Hill Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Tom Barry from Eustance & Horowitz, P.C.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. The owner of SBL 47-1-2 is Bruderhof Communities in NY, which is different than the legal name of the owner of SBL 47-1-91.21. Applicant has supplied a copy of the NYS Certificate of Amendment regarding a name change. Applicant to discuss
4. Applicant to discuss 'Square Rule Exhibit'.
5. Place a note on the plan; "No further subdivision of the remainder of Section 47, Block 1, Lot 91.21."
6. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, and Aquifer Protection Overlay Notes.
7. Provide the deed and the recording information on the map for the lot line change.
8. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
9. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 9/17/08:

Church Communities of NY, Inc. – The CB has no comments.

The following comment submitted by the ARB:

Church Communities of NY, Inc. – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared Lead Agency back in August. The applicant has submitted a short EAF. It is an Unlisted Action. There are no other involved agencies. There is no construction proposed. I have prepared a Draft Negative Declaration for the Board's consideration.

Comment #2: Applicant to discuss project.

Tom Barry: Our client, Church Communities purchased approximately 41 acres from the prior owner. He did not want the house at that time. As I mentioned last month, the Terron's had to move out of the country. They bought everything in full. Now, we are wishing to change the lot line and sell the 5 acres with the house up front. They don't want to have that as part of their property.

Comment #3: The owner of SBL 47-1-2 is Bruderhof Communities in NY, which is different than the legal name of the owner of SBL 47-1-91.21. Applicant has supplied a copy of the NYS Certificate of Amendment regarding a name change. Applicant to discuss.

Tom Barry: I had spoken to our client. They have forward over the amendment of the name change for all the properties. It will be reflected on the plans. The adjoining properties were Bruderhof at one time. Now, it is owned by Church Communities of NY., Inc.

Comment #4: Applicant to discuss 'Square Rule Exhibit'.

Tom Barry: After discussing this with Zen, I put together a diagram that shows the 350-foot square rule with the 5-acre lot that is being created. It does not obviously fit within that. I looked at everything on this lot. It does meet the requirement of the code. We are requesting a waiver of the 350-foot square rule.

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

Zen Wojcik: Yes.

Comment #5: Place a note on the plan; "No further subdivision of the remainder of Section 47, Block 1, Lot 91.21."

Mr. Astorino: You have taken care of that.

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

Mr. Astorino: Will do.

Comment #7: Provide the deed and the recording information on the map for the lot line change.

Mr. Astorino: Will do.

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

Tom Barry: What we were hoping for was to stake the corners of the 5-acre lot that is being created. The remainder of the land the 36 acres is way up on the mountain. We are hoping to get a waiver on that. We do not want to have to go back up there and stake all of those points.

Zen Wojcik: It is important to have it staked at the end of the new 5-acre lot. Beyond that, that would all be open space, farmland, and it is contiguous with other farmland that goes on into Chester. I don't see the value of it.

Mr. Astorino: Ok. We will do that.

Comment #9: Pay outstanding review fees.

Tom Barry: Yes.

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

Mr. McConnell: Are we creating a land locked site here? How do we deal with that?

Mr. Bollenbach: That lot line is to be removed. It will be merged into the other parcel. I have another comment. Provide the dedication strip on Bellvale Lakes Road. The property line does not really conform to the 25-foot setback.

Tom Barry: Right. There was a prior subdivision which this was lot 3. I included a reduce copy of that subdivision. They had shown at that time the 25-foot setback.

Mr. Bollenbach: But, it doesn't seem to coincide with the location of the road.

Tom Barry: We located the rods at the front. One surveyor's centerline of the road sometime is not the same to another surveyor.

Mr. Bollenbach: Zen, is it significant?

Tom Barry: It is more than 25 feet.

Mr. Bollenbach: Zen, what do we have? Looking at the map, it is 25 feet. The center of the road is a little bit further out. Does that look close enough?

Zen Wojcik: Yes.

Mr. Astorino: It is close enough. You are fine. This is a public hearing. If there is anyone in the audience wishing to address the Church Communities application, please rise and state your name for the record.

Alan Wright: I live on Rabbit Hill Road. I border this property. First of all, the 5-acre parcel that is proposed to be subdivided has an existing shed that is non-conforming. It is immediately in my back yard. Secondly, if this lot line change was to be granted, the large parcel which is woodland in the back, it would be adjoined with the existing main Bruderhof area. Is that the way I understand it?

Mr. Astorino: Yes.

Alan Wright: Would that fall under tax exemption automatically?

Zen Wojcik: I believe that the Bruderhof is a religious organization.

Alan Wright: They are.

Mr. Bollenbach: They would have to make an application to the Town's Assessor.

Zen Wojcik: The plus is that the 5 acres will not be tax exempt.

Alan Wright: If you want to consider that as a plus. It is more of a tax burden on the residents of Warwick. I am opposed to that.

Mr. Bollenbach: It is NYS Law.

Alan Wright: I realize that. This is a public hearing. I am just stating my opinion. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Church Communities public hearing?

Mr. Bollenbach: Sir, could you identify that shed? What is the setback on that?

Alan Wright: I think it is 5 feet.

Mr. Bollenbach: 5 feet is what is required.

Randolph Demercado: I was part of the original subdivision of this property. My property is 5 acres that adjoins the other subdivision. In the original subdivision, they tried to subdivide that 44 acres that was left with a house several times. It was denied because there was no way to grant access going up to that property. My biggest concern is that this property was bought as an investment to be turned over. Would the 5 acres be a taxed property as soon as it is subdivided?

Mr. Astorino: The 5 acres will be taxed.

Zen Wojcik: Once the Bruderhof's sell it.

Randolph Demercado: This is the situation here. These people bought a lot of property in that area. They have about 5 or 6 houses in that area. They have taken these houses off the tax rolls. I have lived in Warwick 25 years. I pay my taxes. I have never sent a kid to school here. I get no sanitation or water. I don't get anything from the Town of Warwick. I don't complain about paying my taxes. I think it is unfair having these people move in here, buy property, and have them taken off the tax rolls when everybody else has to pay taxes. I have spoken to the Tax Assessor and Building Inspector. I also have spoken to people in Chester. I have now gone up to Albany and spoken to Senator Bonacic, his secretary, and one of his lawyers. I have also spoken to Assemblywoman Annie Rabbitt. There is a bill in Albany right now to try to change the tax laws. This group is not a church. This is a group of people that decided they did not want to live anymore amongst society. Allowing these people not to pay taxes is not right.

Mr. Astorino: That is above us.

Randolph Demercado: There could be a stipulation put here that states as soon as it becomes a salable property...

Mr. Astorino: We cannot do that. We cannot legally put that stipulation on there. I understand what you are saying. We don't have the power or legal authority to do that.

Mr. Bollenbach: Do you have any other concerns?

Randolph Demercado: My only concern is that they will keep on buying property around the area and be taken off the tax rolls. We are supporting them. This is not a church.

Mr. Astorino: That is for the State of New York to decide.

Randolph Demercado: I am working on that.

Mr. Astorino: That is the avenue that you will have to pursue.

Mr. Showalter: Ben is right. You will have to work hard to change that. There are probably people in this room who agree with you on what you are saying. There is nothing this Board could do on that matter.

Mr. Singer: Could you tell me if their children attend public schools?

Randolph Demercado: Yes. They do. Their kids don't go to school until High School. They have a school on one of their properties that they bought. I don't know much about their school. All of their kids attend the High School in Warwick.

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

Mr. McConnell 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: Church Communities Re-Subdivision

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed Subdivision (Lot Line Alteration), Town of Warwick, Orange County, New York, and

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

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 6/25/08, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Mr. McConnell makes a motion to grant a waiver §137-21k on the 350-foot square rule.

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

Mr. Kowal makes a motion on the Church Communities of NY, Inc., application, granting final approval for a proposed lot line change, situated on tax parcels S 47 B 1 L 9.21 and S 47 B 1 L 2; parcels located on the eastern side of Bellvale Lakes Road 3,200 feet south of Gibson Hill Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

1. SEQR Negative Declaration adopted 9/17/08.
2. The owner of SBL 47-1-2 is Bruderhof Communities in NY, which is different than the legal name of the owner of SBL 47-1-91.21. Applicant has supplied a copy of the NYS Certificate of Amendment regarding a name change.
3. Place a note on the plan; "No further subdivision of the remainder of Section 47, Block 1, Lot 91.21."
4. Provide the Declaration and the Recording Information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, and Aquifer Protection Overlay Notes.
5. Provide the Deed and the Recording Information on the map for the lot line change.
6. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
7. Pay Outstanding Review Fees.

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

PUBLIC HEARING OF Vaughan and Anne Wiles #2

Application for Final Approval of a proposed 4-Lot Conservation Density subdivision, situated on tax parcels S 26 B 1 L 1.225 and L 71; parcels located on the northern side of Amity Road 230 feet west of Little York Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Vaughan and Anne Wiles, applicants.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Provide additional silt fence in the vicinity of Sta. 0+60, the low point of the common driveway and below the embankment slope for the proposed cul-de-sac.
4. The Common Drive Profile shows a maximum grade of 14%. The Code allows a maximum 12% grade (§164-41.2K(5)). Applicant requests a waiver.

BEFORE FINAL APPROVAL:

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

WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§164-41.2K(5)	Design standards (common driveway) – Grade to exceed 12% but not more than 14%.

The following comment submitted by the Conservation Board, dated 9/17/08:

Vaughan and Anne Wiles #2 – The CB is concerned about the slope issues on this property and the extraordinarily long driveways.

The following comment submitted by the ARB:

Vaughan and Anne Wiles #2 – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared Lead Agency quite some time ago using the short EAF. The issues that relate to SEQR are farmland. The site is within the Town's Agricultural Protection Overlay District and is within the NYS Agricultural District. It is also in the Aquifer Protection Overlay District. It is in an area where Franklin Marble might be present. In all of those cases, there have been notes placed on the subdivision plans. Under SEQR, the only other issue was the issue of the State Protected wetlands on the site and the fact that there was significant disturbance to the steep slope areas. The applicant has prepared a soil erosion sediment control plan. That is subject to final approval review by the Town Engineer and inspections by the Town Engineer and the Building Department to make sure that erosion sedimentation of that State wetland is minimized. There won't be any disturbance to the State wetland. There will be no direct impacts on that area or on the 100-foot buffer adjacent to it.

Comment #2: Applicant to discuss project.

Karen Emmerich: We are proposing a 4-lot subdivision. It borders County Route 1, Little York Road, and Amity Road. It is a Conservation Density subdivision. There will be 3 new lots created. The 4th lot will remain as the farm. That consists of 28.1 acres. Lot 1 will have 2.6 acres. Lot 2 will have 2.7 acres. Lot 3 will have 3.6 acres. There will be no further subdivision of the property after this.

Comment #3: Provide additional silt fence in the vicinity of Sta. 0+60, the low point of the common driveway and below the embankment slope for the proposed cul-de-sac.

Karen Emmerich: Ok. Will do.

Comment #4: The Common Drive Profile shows a maximum grade of 14%. The Code allows a maximum 12% grade (§164-41.2K(5)). Applicant requests a waiver.

Karen Emmerich: Correct.

Mr. Astorino: We were out to the site. Due to the cuts and fills, that was a determination. Is that correct?

Mr. McConnell: Could you expand on what cuts and fills are for the record?

Zen Wojcik: I would also like to add to the discussion a letter that we just received from O.C. Department of Planning regarding this application. When the Board was out to the site we directed the Board to take a close look at where the proposed access road for these 3 lots would go because there is a rather steep slope. The road cuts across the steepness of the slope. It requires cutting into the hillside and for embankment to be built up on the bottom. The road would probably be half in and half out of the hillside. There will be some embankment and cuts of the slopes. Even with that, they can't achieve a 12% grade without doing excessive cuts and embankments on the slope over there.

With a 14% grade, which meets the maximum Town's requirement that cut and fill was reduced to a reasonable level. The Board was satisfied where they had seen where the road would be out there. The County has added a comment. It points out that this is for local determination. This is something the Board would not have to consider by a super majority. The County was wondering if the driveway could be shortened. The Board had several discussions about that at a work session and have discussed on the record on where the driveway would go and where the houses would be located. The access road is not overly long. It is as long as it needs to be to get where the houses are and still retain a working farm.

Mr. Astorino: Ok. Dennis, do you have anything further?

Mr. McConnell: No. I just wanted to get that clarified.

Mr. Bollenbach: That also addresses the Conservation Board's comment, dated 9/17/08 regarding the slope.

BEFORE FINAL APPROVAL:

Comment #5: Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, and Common Driveway and Drainage Use and Maintenance Agreement Notes.

Karen Emmerich: Ok.

Comment #6: Parcel is underlain by Franklin Marble. Provide Franklin Marble Construction Note and the declaration and recording information for Radon Reduction Notes.

Karen Emmerich: Ok.

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

Karen Emmerich: Ok.

Comment #8: Pay performance bond and construction inspection fee for common driveway, stormwater management facilities, and erosion control.

Karen Emmerich: Ok.

Comment #9: Pay parkland fees.

Karen Emmerich: The owners are aware of that.

Comment #10: Pay outstanding review fees.

Karen Emmerich: Yes.

WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§164-41.2K(5)	Design standards (common driveway) – Grade to exceed 12% but not more than 14%.

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

Mr. Singer 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: Wiles Conservation Density Subdivision

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

Whereas, there are other involved agencies pursuant to SEQR, including the Orange County Department of Public Works, which will make its own determination of significance, and

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 4/25/07, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Mr. Singer makes a motion on granting a waiver of §164-41.2K(5) Design standards (common driveway) – Grade to exceed 12% but not more than 14%.

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

Mr. Kowal makes a motion on the Vaughan and Anne Wiles #2 application, granting final approval for a proposed 4-Lot Conservation Density subdivision, situated on tax parcels S 26 B 1 L 1.225 and L 71; parcels located on the northern side of Amity Road 230 feet west of Little York Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

1. SEQR Negative Declaration adopted on 9/17/08.
2. Provide additional silt fence in the vicinity of Sta. 0+60, the low point of the common driveway and below the embankment slope for the proposed cul-de-sac.
3. Provide the Declaration and the Recording Information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, and Common Driveway and Drainage Use and Maintenance Agreement Notes.
4. Parcel is underlain by Franklin Marble. Provide Franklin Marble Construction Note and the declaration and recording information for Radon Reduction Notes.
5. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space.
6. Pay Performance Bond and Construction Inspection fee for Common Driveway, Stormwater Management Facilities, and Erosion Control.
7. Pay Parkland Fees.
8. Pay Outstanding Review Fees.

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

Karen Emmerich: Thank you.

PUBLIC HEARING OF Richard Slater, Jr., and Wayne Wolfe

Application for Site Plan Approval for the construction and use of an addition and modifications to existing structures and utilities, located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 77 B 1 L 34.12 ; project located on the western side of Shore Avenue, in the SM zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Mr. Lipman, Attorney.

Connie Sardo: Mr. Chairman, we have just received the certified mailings on the Slater & Wolfe public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. The limits of Shore Avenue right-of-way are shown on the Site Plan and on the Existing Conditions Survey. Applicant proposes construction of a new septic tank, aerobic treatment unit and septic pump tank within this right-of-way. Also, a portion of the renovated and expanded portion of the primary dwelling will continue to be in the ROW as well as the existing well. Applicant's submitted deed shows that the applicant may have a right to a portion of the ROW. A copy of the private road use and maintenance agreement has been submitted. Planning Board Attorney to comment.
4. Applicant had been directed to Orange County Health Department for approval of proposed septic system. August 29, 2008 letter from M.J. Schleifer, P.E., accepts septic design based on installation of an aerobic treatment unit and construction of modified Eljen system trenches. Applicant's engineer to discuss aerobic treatment unit.
5. On the Site Plan, show a "Limit of Excavation" extending 8 inches beyond the limits of subsurface construction for sanitary waste system components. Include the following note: "Excavation beyond the limits shown herein shall only be for removal of unsuitable material as approved by the Town Engineer or Building Department." Note the surface treatment in this area after construction. Show a location where excavated material can be stockpiled, and note how this location will be restored when the stockpile is removed.
6. FOR THE RECORD - Applicant was referred to ZBA for a variance from the bulk requirement for maximum lot coverage. A variance was granted. Full text of ZBA decision has been placed on the plans.
7. The parcel has two existing cesspools. Both areas are proposed to be occupied by components of the new septic system. The Demolition & Removals Plan states that the cesspools are to be "abandoned, pumped out, and completely filled with gravel". However, the proposed construction will force the removal of all or part of these components. Are the removed sections of the "abandoned" cesspools considered hazardous waste, or can they be mixed with ordinary construction debris? Note the method of removal and disposal of existing facilities. Place a note on the plan that the engineer must certify to the Building Department that the existing facilities were removed

in accordance with the plans and that any new facilities constructed in these areas have been inspected prior to backfilling.

8. Pay outstanding review fees.

The following comment has been submitted by the Conservation Board, dated 9/17/08:

Richard Slater, Jr., and Wayne Wolfe - The CB acknowledges the Orange County Board of Health's approval of the septic system but supports the Town Engineer's need to further study the absorption field design, given the proximity to Greenwood Lake.

The following comment has been submitted by the ARB, dated 9/17/08:

Richard Slater, Jr., and Wayne Wolfe - ARB would like to see elevations for all four sides of this project, even though it is essentially creating a new building over the existing impervious surfaces. We would like to see how it is going to blend into the existing lakeside landscape rather than create an intrusion for lake users and neighbors.

- 2) We question the wisdom of placing the septic system uphill from the dwelling, as well as the drainage shown that could in wet weather leach from the septic field to the lake.

- 3) We question the distance from the septic system to the neighboring wells.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared itself Lead Agency on this application. We have been reviewing it with the short EAF. There were only two issues regarding SEQR. One issue was in regards to the visibility of the property. The applicant has provided us with building elevations as well as photographs of the existing conditions of the site so that we could ascertain potential impacts on visibility. The other SEQR issue was the potential impacts on Greenwood Lake as the result of construction activity and long-term runoff into the lake. As far as the septic system, I believe the OCHD has indicated that the proposed septic system design, which is an Eljen system trenches and an aerobic treatment unit which would be acceptable to them. As far as sedimentation, they have shown some sediment barriers for construction. That would be subject to the Town Engineer's review and approval at the time a building permit has been issued. They have also proposed a water quality catch basin to treat the stormwater runoff before it gets to the lake. It is a rather developed property already.

Comment #2: Applicant to discuss project.

Karen Emmerich: It is a 3-bedroom house. Then, there is a separate structure which is a 1-bedroom dwelling that they call a Tiki Hut. What they are going to do is renovate and make one structure out of the two structures. The same number of bedrooms will exist. They are also going to construct a new 2 car garage. They are going to replace their current septic system with an aerobic system.

Mr. Singer: Does this Tiki Hut have utilities?

Karen Emmerich: Yes.

Mr. Singer: Does it have a bathroom?

Karen Emmerich: Yes. It has its own bathroom.

Comment #3: The limits of Shore Avenue right-of-way are shown on the Site Plan and on the Existing Conditions Survey. Applicant proposes construction of a new septic tank, aerobic treatment unit and septic pump tank within this right-of-way. Also, a portion of the renovated and expanded portion of the primary dwelling will continue to be in the ROW as well as the existing well. Applicant's submitted deed shows that the applicant may have a right to a portion of the ROW. A copy of the private road use and maintenance agreement has been submitted. Planning Board Attorney to comment.

Mr. Bollenbach: We could strike comment #3 in its entirety. The applicant owns the area. It is not a R.O.W. I will add a comment at the end to state; provide a Road Maintenance Agreement and related easements with the recording information to be placed on the map. The Road Maintenance Agreement that I reviewed is undated and unsigned. I don't know if it was ever recorded. I need a recorded document and whatever related easements.

Mr. Lipman: I don't know if it was ever recorded.

Mr. Bollenbach: If it was not, you could provide it. If it was recorded, just provide the information.

Mr. Lipman: In order to do that, it would require the cooperation of the other parties.

Mr. Bollenbach: That would be nice. Is everyone happy now?

Mr. Lipman: That might not be possible.

Mr. Bollenbach: Let us see how far we get.

Mr. Lipman: Ok.

Comment #4: Applicant had been directed to Orange County Health Department for approval of proposed septic system. August 29, 2008 letter from M.J. Schleifer, P.E., accepts septic design based on installation of an aerobic treatment unit and construction of modified Eljen system trenches. Applicant's engineer to discuss aerobic treatment unit.

Karen Emmerich: I believe that Dave has explained the aerobic treatment unit.

Zen Wojcik: Let me add to that. The unit that they are proposing is similar to other models that are being proposed at other locations in Greenwood Lake. However, it looks differently. That was why I was questioning it. What they are doing is more of customizing for the site. The aerobic treatment unit for this type has to meet a certification. NYSDOH requires it to be certified in a certain manner. We are fine with this.

Mr. Bollenbach: Let us add to comment #4; provide annual maintenance contract to the Building Department.

Comment #5: On the Site Plan, show a "Limit of Excavation" extending 8 inches beyond the limits of subsurface construction for sanitary waste system components. Include the following note: "Excavation beyond the limits shown herein shall only be for removal of

unsuitable material as approved by the Town Engineer or Building Department.” Note the surface treatment in this area after construction. Show a location where excavated material can be stockpiled, and note how this location will be restored when the stockpile is removed.

Karen Emmerich: Ok.

Comment #6: FOR THE RECORD - Applicant was referred to ZBA for a variance from the bulk requirement for maximum lot coverage. A variance was granted. Full text of ZBA decision has been placed on the plans.

Comment #7: The parcel has two existing cesspools. Both areas are proposed to be occupied by components of the new septic system. The Demolition & Removals Plan states that the cesspools are to be “abandoned, pumped out, and completely filled with gravel”. However, the proposed construction will force the removal of all or part of these components. Are the removed sections of the “abandoned” cesspools considered hazardous waste, or can they be mixed with ordinary construction debris? Note the method of removal and disposal of existing facilities. Place a note on the plan that the engineer must certify to the Building Department that the existing facilities were removed in accordance with the plans and that any new facilities constructed in these areas have been inspected prior to backfilling.

Karen Emmerich: Yes. The cesspools will be pumped out. The existing material will be mixed with clean fill. It won't be taken off site.

Zen Wojcik: There is a problem. The location where the cesspools are shown, one cesspool will be completely overwhelmed by the construction of the new septic systems. It is disingenuous to say that you are going to pump it out, then leave it in place, and say that it wouldn't be considered hazardous material. It has to go. I asked 1-1/2 weeks ago for Lehman & Getz Engineering to determine this matter.

Karen Emmerich: We have been in discussions with the Health Department. I spoke with Greg Moore today. You could verify with him if you like. It will not be taken off site.

Zen Wojcik: It will have to be taken off site. You are building something in its location. It cannot stay there. Two things cannot occupy the same location.

Karen Emmerich: I realize that.

Mr. Bollenbach: We will add to comment #7; Town Engineer to verify.

Mr. McConnell: Is this going to require them to vacate the house during the construction of the new septic system?

Karen Emmerich: Possibly. It depends on the timing of it.

Mr. Astorino: Zen, you will have to verify that.

Comment #8: Pay outstanding review fees.

Karen Emmerich: 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 Slater-Wolfe application, please rise and state your name for the record. Let the record show no public comment.

Mr. Bollenbach: I have a question. Karen, what about the acreage? Let us add a comment, comment #10; Town Engineer to verify acreage.

Karen Emmerich: Ok. I will double check that with the survey.

Mr. Bollenbach: Just for the Board's information, it was 3.69 acres. That was when they did not own the R.O.W. Now, they own additional land. I believe that number should have changed. That has to be verified.

Karen Emmerich: I will have that verified.

Mr. Singer: I am confused about this cesspool situation. The County is saying that they are not concerned if they don't move this material from the site. Our Engineer is saying that it has to be removed from the site. How are we going to resolve this?

Mr. Bollenbach: That was why I added to that comment for the Town Engineer to verify. Zen will give them a call to verify where this has to go.

Mr. Astorino: Zen, what you are saying is that it has to be trucked out of there?

Zen Wojcik: The problem is that we don't know whether this would be dealt with as hazardous material. If it is, what I would ask the applicant to do is provide a certification to the Building Inspector that it has been removed from the site to a proper disposal facility.

Mr. Astorino: So, you are unsure if it is hazardous or not.

Zen Wojcik: I can't see how they could build this with this thing staying there in the same location.

Mr. Bollenbach: Zen, you will verify that.

Zen Wojcik: Right.

Mr. Astorino: We will make a note on the plan to that effect.

Mr. Bollenbach: The applicant would have no problem with that.

Mr. Lipman: Zen, assuming that it is not hazardous waste, could it be removed from its existing location and buried somewhere else on the site?

Zen Wojcik: That is the way I phrase the question. If it is not, it could be mixed in with the rest of the construction debris. If it were, it would have to go off the site somehow.

Mr. Astorino: We have a comment from the Conservation Board, dated 9/17/08. Zen, did you have an issue with the absorption field?

Zen Wojcik: Just to clarify for the record, in previous comments we had issues with the sizing of the absorption field because it was too small. That was why it was directed to the County. The County had reviewed it. The County has given us a letter approving what is there right now.

Mr. Astorino: Ok. I just wanted to clarify that.

Mr. Singer: I am concerned about pumping out the cesspool and that it would end up into the lake.

Mr. Bollenbach: They pump it out into a truck. They truck it away.

Mr. Showalter: It will be gone for good.

Mr. Astorino: We have a comment from the ARB, dated 9/17/08.

Karen Emmerich: They have received elevations.

Connie Sardo: They have received the elevations two times already.

Mr. Astorino: Ok. That has been addressed.

Mr. Singer 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: Slater-Wolfe Residence Additions and Renovations

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed Site Plan, Town of Warwick, Orange County, New York, and

Whereas, there are other involved agencies pursuant to SEQR, including the Town Zoning Board of Appeals, which has already made its own determination of non-significance on the action and

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 8/28/07, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Mr. Kowal makes a motion on the Richard Slater, Jr., and Wayne Wolfe application, granting Site Plan Approval for the construction and use of an addition and modifications to existing structures and utilities, located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 77 B 1 L 34.12; project located on the western side of Shore Avenue, in the SM zone, of the Town of Warwick, County of Orange, State of New York. Negative Declaration was adopted on 9/17/08, subject to the following conditions:

1. SEQR Negative Declaration adopted on 9/17/08.
2. Provide Private Road Use and Maintenance Agreement and related easements with recording information placed on map.
3. Applicant had been directed to Orange County Health Department for approval of proposed septic system. August 29, 2008 letter from M.J. Schleifer, P.E., accepts septic design based on installation of an aerobic treatment unit and construction of modified Eljen system trenches. Provide Annual Maintenance Contract to Building Department.
4. On the Site Plan, show a "Limit of Excavation" extending 8 inches beyond the limits of subsurface construction for sanitary waste system components. Include the following note: "Excavation beyond the limits shown herein shall only be for removal of unsuitable material as approved by the Town Engineer or Building Department." Note the surface treatment in this area after construction. Show a location where excavated material can be stockpiled, and note how this location will be restored when the stockpile is removed.
5. The parcel has two existing cesspools. Both areas are proposed to be occupied by components of the new septic system. The Demolition & Removals Plan states that the cesspools are to be "abandoned, pumped out, and completely filled with gravel". However, the proposed construction will force the removal of all or part of these components. Are the removed sections of the "abandoned" cesspools considered hazardous waste, or can they be mixed with ordinary construction debris? Town Engineer to verify. Note the method of removal and disposal of existing facilities. Place a note on the plan that the engineer must certify to the Building Department that the existing facilities were removed in accordance with the plans and that any new facilities constructed in these areas have been inspected prior to backfilling.
6. Town Engineer to verify acreage.
7. Pay Outstanding Review fees.

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

PUBLIC HEARING OF Robert Silber

Application for site plan approval and special use permit for the construction and use of Stormwater Management Ponds and cul-de-sac for a Village of Warwick Subdivision, entitled, "*Village View Estates*", situated on tax parcels S 43 B 1 L 3 and S 31 B 2 L 85.2; project situated on the western side of Sleepy Valley Road (Locust Street) at the intersection of Woodside Drive, Village of Warwick, in the SL zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Kirk Rother, Engineer.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Revise the Town of Warwick typical road cross-section. Call-out for top course is redundant. In lieu of subbase testing, consider using "standard" town road section and eliminating Note #2.
4. Provide a signed and sealed copy of the final revised SWPPP.

BEFORE FINAL APPROVAL:

5. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Drainage Maintenance Agreement.
6. Pay performance bond and construction inspection fee for stormwater management facilities and erosion control.
7. Provide a 3-year Landscape Maintenance Bond for hydric plantings at stormwater management facilities.
8. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 9/17/08:

Village View Estates – The CB has no comments.

The following comment submitted by the ARB:

Village View Estates – None submitted.

Comment #1; Board to discuss SEQR.

Mr. Fink: Under SEQR, the V/Warwick Planning Board acted as Lead Agency on this project. What they had done was issue a Positive Declaration. They went through the full EIS process. They required the applicant to prepare a Draft and Final EIS. Those documents were both accepted by the V/Warwick Planning Board. They then went on to adopt a written Findings Statement on July 17, 2008. Every other involved agency including the Town

Planning Board is obligated also to adopt a Findings Statement, their own findings that are based upon the Draft and Final EIS.

Mr. Astorino: Is that on the entire project or only what lies in the Town of Warwick?

Mr. Fink: The jurisdiction of the Planning Board is limited to site plan approval of what is within the Town of Warwick, which is basically the drainage system and the soil and water management system.

Mr. Astorino: Ok.

Mr. Fink: The Findings Statement has not repeated all of the findings that the Village Planning Board reached. They are a completely different SEQR process. They looked at traffic and a whole variety of other things. They looked at archeology and so forth. Our review is limited to jurisdiction over stormwater and the wetlands. There is a Federal wetland on the Town portion of the property. A portion of that wetland, which is a very small portion of it, it would be filled for construction of one of the two stormwater management basins. The applicant has prepared a SWPPP. We have a copy of that. All of this was detailed within the Draft and Final EIS. What I have done was prepared a Findings Statement that is limited to those two issues of the wetlands and stormwater. That relates directly to the Town Planning Board's jurisdiction on this. The Board has a copy of the Findings Statement in their packets tonight for their consideration.

Comment #2: Applicant to discuss project.

Kirk Rother: We had a public hearing with the Town Planning Board back in February. The Board adjourned it without date so that the Village could complete their SEQR process as Lead Agency. Ted had just indicated that they have done that on July 17, 2008 and circulated on July 22, 2008. Now, this Board is able to complete its SEQR process. We are now back before you to address any outstanding items that the Board might have regarding the two features within the Town of the proposed temporary cul-de-sac and the stormwater management ponds. The plans have not changed regarding those last two items since our last appearance before this Board.

Comment #3: Revise the Town of Warwick typical road cross-section. Call-out for top course is redundant. In lieu of subbase testing, consider using "standard" town road section and eliminating Note #2.

Kirk Rother: Will do.

Comment #4: Provide a signed and sealed copy of the final revised SWPPP.

Kirk Rother: Ok.

BEFORE FINAL APPROVAL:

Comment #5: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Drainage Maintenance Agreement.

Kirk Rother: Yes.

Comment #6: Pay performance bond and construction inspection fee for stormwater management facilities and erosion control.

Kirk Rother: Will do.

Comment #7: Provide a 3-year Landscape Maintenance Bond for hydric plantings at stormwater management facilities.

Kirk Rother: Yes.

Comment #8: Pay outstanding review fees.

Kirk Rother: Ok.

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

Zen Wojcik: We need to add a comment. Need to provide filed NOI and NOT.

Mr. Astorino: We will add that comment to comment #4.

Mr. McConnell: I have a question for our Planner. I was reading the Findings Statement. I thought it would be said that there would be some permanent disturbance to some of this Federal wetland. The Findings Statement says, to compensate for the loss, the applicant may be required to mitigate. Isn't that a determination that we don't make but that the ACOE makes? Who makes that determination as to whether they would be required to mitigate?

Mr. Fink: It is the ACOE. It is a Federal jurisdiction wetlands. If we were to make any sort of determination like that, I think we would have had to have a very active role in the SEQR review process by the Planning Board because they were the Lead Agency. Once the draft has been completed, that would be our opportunity to comment on that document and respond to it in the FEIS. I don't think we would go back and open SEQR at this point. The wetland to be disturbed is a very small amount. It is about 71 square feet which is covered under the Nationwide Permit. I don't know the calculation of how much would be disturbed within the Village portion of it. There is a crossing of the wetland by the proposed entrance road. It clips a little corner of the wetland that is associated with a stream that goes through the site for the actual construction of the detention pond where they have to build up the sides of the pond.

Mr. McConnell: I am concerned that the applicant is looking for our approval for doing something that we are not sure on what would happen to it.

Mr. Fink: If they don't get the ACOE approval for it, then I don't think they could do it. They would have to go back to the drawing board.

Mr. Astorino: Didn't you say that any of the other involved agencies, which the ACOE would be, they would have to provide?

Mr. Fink: Yes. But, the ACOE doesn't get involved with SEQR because they are a Federal agency. They have their own general environmental requirements.

Kirk Rother: We are under 1/10th of an acre.

Mr. Astorino: My understanding is that it would be up to the ACOE.

Mr. McConnell: It is my understanding that we could be more restrictive than what the ACOE is.

Mr. Fink: Or, if they take an active role in SEQR and if we had a comment that said we demand litigation...

Mr. McConnell: Was this the one we were questioning whether we were given an opportunity to participate in the original SEQR review?

Mr. Fink: There was some question about that situation.

Mr. McConnell: Did we ever resolve that we had been?

Mr. Fink: I am not sure.

Mr. McConnell: I am uncomfortable with the posture that we are in at this point eventhough it is a small area. That is an area that has some issues with drainage. I am not comfortable with it.

Mr. Fink: Kirk, could you move the detention basins so that it doesn't encroach on the wetland?

Kirk Rother: I think it would be challenging. The whole purpose of us having our stormwater management pond in this area is to try to attenuate the post-developed peak flow rates to a greater level than the minimum required because of some known downstream impacts. I do know that our total area of disturbance is under 1/10th of an acre for the entire site. The ACOE is not going to deny our application.

Mr. McConnell: Maybe, I will. Kirk, that is the point here.

Zen Wojcik: It is such a small disturbance of the wetland. The Federal Government allows ¼-acre of disturbance under the Nationwide Permit. I doubt that there is going to be any kind of mitigation required for this. The statement that is made in there is cautionary until the plan is correct in having something in there about that.

Mr. Astorino: Dennis, do you have anything else?

Mr. McConnell: No.

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

Donna Washio and Steven Washio come up to the Board to express their concerns on the Village View Estates application.

Donna Washio: We received a letter regarding this project. I am not sure how this project would affect us. We have 50 to 80 acres behind our house that comes in between Sleepy Valley Road. I had originally seen the plans. It didn't look like it was going to affect us. Then, my neighbors and I received this letter. We live on Laura Lane.

Mr. Bollenbach: Kirk, do you want to show Ms. Washio the plan. People receive a notice that live within 300 feet of a property line.

Mr. Rother shows the map to Ms. Washio and explains the project to her regarding the construction and use of stormwater management ponds and cul-de-sac. Ms. Washio had concerns about the subdivision portion of it, which lies within the Village of Warwick. Mr. Astorino explains to her that the Town has nothing to do with the subdivision portion of it. We are only looking at the stormwater basins that are in the Town.

Steven Washio: Could you show me on the map where the Town and Village breaks? It was our understanding that our development was the outer border of the Village.

Mr. Astorino: Are you in Chelsea Gardens?

Steven Washio: Yes. Was this transferred out?

Mr. Bollenbach: It was annexed.

Donna Washio: You were talking about wetlands. We already have problems with runoff.

Steven Washio: One of the concerns is because we are on the side of the hill is if it is in the Town and it has septic. We have concerns about seepage.

Mr. Astorino: This is all Village sewer.

Steven Washio: Ok. Thank you.

Donna Washio: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Village View Estates application?

John Buckley: I live on Melody Circle. I think I understood the information about the subdivision was approved based on the Village.

Mr. McConnell: It was approved by the Village Planning Board.

John Buckley: But, this is a piece that is within the Town.

Mr. Astorino: That piece is where they are putting their stormwater pond and a temporary cul-de-sac.

John Buckley: But, they need that in order to do this subdivision in the Village. Is that correct?

Kirk Rother: Not necessarily. As far as the cul-de-sac, we had a T cul-de-sac in between lots 10, 12, and 9. Late in the process, the Superintendent asked if we could do it as a cul-de-sac. It was actually the Village Engineer's suggestion that we do a cul-de-sac instead of the T-turnaround in the Town. This stormwater management pond in the Town has been a discussion from day one to try to solve existing downstream problems.

John Buckley: Does that process have to go back before the Village Planning Board because you have changed what they have approved?

Kirk Rother: We didn't change it. This plan as you see it, it was approved by the Village Planning Board.

John Buckley: I am not really addressing that plan. The Village Planning Board approved that plan. The Town had nothing to do with that. It confuses me on how come now this process takes place after the Village Board already approved something. Now, the developer has to come before the Town Planning Board to request permission to do it.

Mr. Bollenbach: They received preliminary approval from the Village. It then comes to the Town for approval of the facilities that are located in the Town. Then, it will go back to the Village for final approval.

John Buckley: For the Town's part of it, after listening to the discussions regarding the wetland on what would impact the approval of this whether it is a small piece or not. I would encourage that this Board would take that on as a problem and that you made a request for the ACOE to take it on as a problem. That would be done as a step before anything is approved. You can't just look at it and say that it is so small that we don't need to look at the ACOE or anybody else.

Mr. Astorino: The ACOE is involved. Ted, is that correct?

Mr. Fink: Yes. They are involved. It is a Federal wetland. The ACOE has a letter which is in the Town Planning Board's files and the Village Planning Board's files. The ACOE confirmed that they had jurisdiction of that wetland area.

John Buckley: Again, for clarification, I thought I heard somebody say that the piece might be small enough where the ACOE doesn't have to be involved.

Zen Wojcik: No. I said that they are involved. They are an involved agency. The ACOE follows a regulation called the Nationwide Permit. Normally they allow disturbances of ¼-acre or less. This is certainly less than ¼-acre. It would have to be something extraordinary for them to come on such a small piece and say they would want to have some mitigation for this. It would mean that these are extraordinary wetlands or if they were a habitat for endangered species, I would then expect to see an action by the ACOE.

Mr. Astorino: That is our Engineer's opinion.

John Buckley: I have lived across from that piece for 35 years. There has been many runoff problems by the Valley View Circle development, which is the Village's problem. When they get into this part of it where they are doing retention ponds, I know that you put something in there about a bond they would have to put up to complete that part of it.

Mr. Astorino: It would be inspected by our Engineers.

John Buckley: Is that cul-de-sac that he is talking about that might be accepted by the Town, if he defaults, does it go back to the bond?

Mr. Bollenbach: That is what the bond is for. It is to cover that in the event that they do not complete it and that the funds are sufficient enough to complete it.

Mr. Astorino: The Town would hire a contractor to come in and do the work.

John Buckley: They would finish the road.

Mr. Astorino: We would finish the cul-de-sac just at that section.

John Buckley: What about the retention ponds?

Mr. Astorino: The retention ponds will be inspected by our Engineer.

Mr. Bollenbach: They are also bonded.

John Buckley: Regarding a different development on County 1 and West Street, which is called Pelton Crossing, they have retention ponds. They were initially unsuccessful. Is that same type of structure going in over here?

Zen Wojcik: Yes. Those ponds and any other ponds being constructed for development are designed for the full buildout of that development. Pelton Crossing was designed for 49-houses. The roads are in. But, not all of the driveways are in. There has been only 3 or 4-houses built there. Once there are 49 houses in there with driveways and the roads are completed, then the ponds would have a lot of water in them when it rains. That is what it does.

John Buckley: I don't disagree with the Engineers. I would just encourage the Board to take into consideration that wetland. That seems to be the one piece that becomes questionable.

Mr. Astorino: There will also be some landscaping done around those ponds. We also have a 3-year landscape bond in place.

John Buckley: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Village View Estates application?

John Sinsabaugh: I live on Sleepy Valley Road. I have some concerns about the ponds. Would they put up fences to prevent children from going in them and drowning?

Mr. Astorino: Zen, does this require a fence?

Zen Wojcik: I don't think so. There are slopes that you could climb up and down. They won't be so steep that somebody won't be able to get out of there.

John Sinsabaugh: Don't they hold enough water where a kid could come along and drown? That is a concern.

Zen Wojcik: Anyone could drown in 6" of water. Typically something like this you wouldn't.

John Sinsabaugh: Thank you.

Mr. Astorino: Is there anyone else in the audience wishing to address the Village View Estates application?

Frank Ridlin: I live on Sleepy Valley Road. I want to question the Engineer. That field where he wants to put in a road is all downhill. The only thing that keeps the water from coming down is the brush and everything in there. It retains the water. It lets it come off slowly. When he builds, the water will have to go into the stream that is there. I feel sorry for the other people on the other side of Woodside Drive. It floods now. With all the extra water and with the retention ponds, it only holds a certain amount of water. Then, that will all come down. There will be flooding problems. I wish the Engineer would go up and figure out how much water could that stream hold before they let anybody build there. At least this way, the people could come and sue the Town because the Engineer said that it was ok.

Mr. Astorino: First of all, they would have to sue the Village.

Frank Ridlin: The Town is putting the road in up there.

Mr. Astorino: No. The Town is not putting in a road up there. Zen, could you clarify that?

Zen Wojcik: Yes. All of these stormwater management facilities have been designed according to the regulations of NYSDEC. Those regulations state that after construction, you can't have more water coming off the site than there is before construction. If you don't have a problem now, you shouldn't have a problem after this. If you have a problem, this will not solve your problem.

Frank Ridlin: Retention ponds only hold a certain amount of water. The retention ponds would add to the flooding.

Zen Wojcik: If the stream floods now, it will continue to flood. This is not a solution to the flooding problem. If you have a flooding problem in the Village, you will need to speak to the Village. All we have done here was review the calculations. They meet the requirements of the NYSDEC.

Frank Ridlin: It will not affect me. I feel sorry for the people that it will affect.

Zen Wojcik: You will need to address that to the Village.

Mr. Bollenbach: Kirk, isn't the SWPPP facility oversized to try to attenuate some of the existing problems?

Kirk Rother: Right.

Mr. Astorino: Is there anyone else wishing to address the Village View Estates application?

Raymond Maher: I never received a registered letter. I heard about this meeting from my neighbors.

Mr. Astorino: You would get a letter if you are within 300 feet of the property.

Raymond Maher: I live right across the street on Woodside.

Mr. Bollenbach: Do you have any concerns?

Raymond Maher: I was at the Village meetings. The Village determined that they would have to put fences around the retaining ponds in the Village. I think the Town people should have the same comfort.

Kirk Rother: In the Village, they are water quality ponds. They have a permanent pool of water. They would be in the subdivision itself.

Raymond Maher: Do the retention ponds go in first before you scrape and tear the land up?

Mr. Astorino: They have to.

Kirk Rother: They go in first.

Raymond Maher: Are these retention ponds sunk in or elevated?

Kirk Rother: The ones within the subdivision are sunk in. The one in the Town is a combination of both. It is on a slope. It is on the downstream side. There is an embankment on the upstream side.

Raymond Maher: There is no guarantee that they can't let loose and take out some homes.

Kirk Rother: There is a process called a design of dams. The DEC has it. We design these ponds so we don't even come close to being a dam.

Mr. Astorino: It would have to be inspected by our Engineers.

Raymond Maher: How long are the bonds that he has to put up for these ponds?

Mr. Astorino: We have the inspection fees, the bond to build it, and then the landscape bond for 3-years. Once it is built and deemed and done complete, then they get their bond back for that. The landscape bond has to go for 3-years.

Raymond Maher: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Village View Estates application?

Andrew Lions: I represent my mother. She lives on Woodside Drive. We have a drainage pond that will be located near our house.

Mr. Astorino: That one is in the Village. That is not the Town.

Andrew Lions: Could I ask questions about the Village stuff?

Mr. Astorino: It won't do you any good. We wouldn't have the answers for you.

Andrew Lions: Ok.

Kirk Rother: Just to make the public aware, we have had two public hearings in the Village. This is the 2nd public hearing in the Town.

Mr. Astorino: You will still have a final public hearing yet to go through in the Village.

John Buckley: I would like to comment that the reason that we didn't know about the Village process is because we don't get legal notices from the Village when they do things. When they do things, we find out about it through the paper. They don't notify.

Mr. Astorino: I am not sure about the Village's procedure. We have a certain provision in our code. I am not going to comment on what the Village does or does not do.

Raymond Maher: What is the difference between retention pond and water quality pond?

Zen Wojcik: A retention pond holds water. It holds it for a period of time. Then, it lets it go. A detention pond holds water for a longer period of time until it gets dry. Stormwater management, there are all different kinds of facilities that the State encourages people to make a choice of using, whichever is most appropriate for the site. Sometimes, it does hold water all the time. Sometimes, it just lets the water pass.

Raymond Maher: Water quality ponds will draw more mosquitoes than retention ponds.

Zen Wojcik: No. Part of the regulations from the State is for a reduction of mosquitoes.

Mr. Astorino: Is there anyone else wishing to address the Village View Estates application?

Steven Washio: The way this cul-de-sac is drawn up, is there a future availability for this to be developed into a through road? Or, is this a cul-de-sac that is going to stop and not allow any further traffic go beyond?

Kirk Rother: No. The intent of that stub is for a future through road.

Mr. Astorino: Is there anyone else wishing to address the Village View Estates application?

Mr. Gujar: You mentioned earlier that there were certain limitations amongst your jurisdiction regarding multiple agencies that would be involved ultimately besides on what happens here. Could you elaborate on that? I did not understand the limitation of the Town.

Ted Fink: There is an environmental review process every agency has to undertake before they could approve any action. Often, when there are multiple agencies involved, all the agencies come to an agreement as to one agency that acts as Lead Agency. In this case, it was the Village Planning Board. They were the ones that were designated as Lead Agency.

The reason is that all of the 28 lots to be developed are located within the Village. They have the biggest decisions to make for the subdivision. The Town of Warwick Planning Board's jurisdiction was limited to the stormwater management basins. We didn't take a backseat to them. We weren't in charge of the environmental review process. The Village Planning Board was. We were only an involved agency. We had the ability to comment on the environmental documents that were presented and considered by the Village Planning Board. Beyond that, any decision that the Planning Board makes whether or not to approve the drainage facility within the Town has to be based upon the environmental review that was conducted by the Village.

Mr. Gujar: Is it purely comment as opposed to influence? I am trying to understand the difference. You said that you could comment on it. Is it not really a decision?

Mr. Fink: No. The Planning Board does get to make a decision. The Planning Board's decision has to be based upon the environmental record that has been established by the Village Planning Board. We can't go beyond the documentation that was provided in the Draft and Final Environmental Impact Statements. This Planning Board is obligated to prepare a Findings Statement. That Findings Statement has to be based upon the environmental record.

Mr. Gujar: When the Findings Statement is completed, does that become public record?

Mr. Fink: Yes. It will be. The Village has already adopted one. This Planning Board can't adopt a Findings Statement until Lead Agency adopts theirs first. Since they adopted their Findings Statement back in the summer, now the Town Planning Board could adopt its own Findings Statement.

Mr. Gujar: Now is that the process moving through this entire project where you review and comment, or do you get involved at a different level?

Mr. Astorino: We just take care of what is in the Town. You are talking about Village issues. The Village Board will have a final public hearing on the subdivision. We cannot comment on the Village Board's decisions.

Mr. Gujar: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Village View Estates public hearing? Let the record show no further public comment.

Mr. Bollenbach: Mr. Buckley had brought up a comment regarding the bond for the stub road. That would be comment #6. Let us add "and stub road" to comment #6. I just wanted to make sure that bond covers that. Thank you Mr. Buckley. We also need to add a comment #9, Provide an offer of dedication for the stub road.

Mr. Kowal makes a motion to adopt the Village View Estates Findings Statement.

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

617.11(c)

State Environmental Quality Review (SEQR)
Resolution Authorizing Filing of Findings Statement

Name of Action: Village View Estates Site Plan

Whereas, the Town of Warwick Planning Board is a SEQR Involved Agency for a proposed 28 lot subdivision within the Village and Town of Warwick, Orange County, New York, and

Whereas, the Village of Warwick Planning Board acted as Lead Agency for the proposed subdivision, adopted a Final Environmental Impact Statement and filed such EIS on May 28, 2008, and

Whereas, the Village of Warwick Planning Board adopted a Written Findings Statement on July 17, 2008, and

Whereas, the Planning Board has reviewed the Draft and Final EIS's for the action, the probable environmental effects of the action, and has considered such impacts as disclosed in the EIS's.

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

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

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

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

Mr. Kowal makes a motion on the Robert Silver application, granting Site Plan Approval and Special Use Permit for the construction and use of Stormwater Management Ponds and cul-de-sac for a Village of Warwick Subdivision, entitled, "**Village View Estates**", situated on tax parcels S 43 B 1 L 3 and S 31 B 2 L 85.2; project situated on the western side of Sleepy Valley Road (Locust Street) at the intersection of Woodside Drive, Village of Warwick, in the SL zone, of the Town of Warwick, County of Orange, State of New York. A Negative Declaration was adopted on 9/17/08, subject to the following conditions:

1. SEQR Findings Statement adopted on 9/17/08.

2. Revise the Town of Warwick typical road cross-section. Call-out for top course is redundant. In lieu of subbase testing, consider using "standard" town road section and eliminating Note #2.
3. Provide a signed and sealed copy of the final revised SWPPP and filed NOI and NOT.
4. Provide the Declaration and the Recording Information on the plan for Ridgeline Overlay Notes and Drainage Maintenance Agreement with the Village of Warwick.
5. Pay Performance Bond and Construction Inspection Fee for stormwater management facilities, erosion control, and stub road.
6. Provide a 3-year Landscape Maintenance Bond for hydric plantings at stormwater management facilities.
7. Provide Offer of Dedication for stub road.
8. Pay Outstanding Review Fees.

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

Other Considerations:

1. **Warwick Views, LLC.** – Planning Board to accept the Draft Environmental Impact Statement (DEIS) for review.

Mr. Fink: We were given a preliminary DEIS on the Warwick Views project. This document right now is in need of a completeness review. We have a Final Scoping Document that the Planning Board has adopted. We use that Final Scoping Document to judge whether or not if the preliminary DEIS is acceptable and adequate with respect to the Scope and its contents. If it is acceptable, then the Planning Board would set up a public comment period on this. They would set a public hearing date. If it is not, we would need to give a longer list based on any issues that we feel was inadequately covered by the EIS. It is onto accept it for review. The subdivision regulations are filtered out with references to acceptance of documents called the official submission, which is done at a regular Planning Board meeting. The Planning Board has always accepted it for review. That starts the clock of 45 days which starts from today.

Mr. McConnell makes a motion on the Warwick Views, LLC to accept the Draft Environmental Impact State (DEIS) for review.

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

2. **Brian Singer Subdivision** – Draft letter to Bob Fink, ZBA Attorney, dated 7/31/08 from John Bollenbach, PB Attorney. Planning Board to discuss.

Connie Sardo: Mr. Chairman, there is also a letter attached to it that we received from Phyllis Briller, dated 9/15/08.

Mr. Bollenbach: This is my draft letter addressed to Bob Fink, dated 9/17/08 concerning his inquiries. It is essentially the same as the prior draft. We just received some additional information. It would be the 2nd paragraph from the bottom that states; As per attached Commonwealth Land Title Insurance Company's letter, dated September 12, 2008, access is insured to and from Continental Road. That was the precise thing that we were looking for from the Title Company to state and clarify. For your reading pleasure, it also references a letter from Phyllis Briller, dated 9/15/08. With the attachments, we will be forwarding it to the ZBA if the Board is in concurrence.

Mr. Astorino: Do any Board members have a problem with that?

Mr. Kowal: No.

Mr. Singer : No.

Mr. McConnell: No.

Mr. Showalter: No.

Mr. Astorino: Ok. We have reached a consensus from the Board.

Mr. Bollenbach: Ok.

3. **Michael Petersen Site Plan** – Planning Board to discuss recommendation to the ZBA.

Zen Wojcik: Mr. Chairman, we have talked about this at the workshop. The Board was patient in allowing me to review the documents that Lehman and Getz had given me regarding the calculations for lot coverage. I took a look at it. They are in the right neighborhood. I feel the variances that they are asking for are warranted.

Mr. Astorino: Is the Planning Board in favor of a positive recommendation to the ZBA?

Mr. Singer: Yes.

Mr. Kowal: Yes.

Mr. McConnell: Yes.

Mr. Showalter: Yes.

Mr. Astorino: Ok. The Board has reached a consensus on sending a positive recommendation to the ZBA on the Petersen application.

4. **Perry Subdivision** – Letter from Lewis & Yolanda Perry, dated 8/25/08 addressed to the Planning Board - in regards to the Perry Subdivision requesting a 2nd 90-Day Extension on Final Approval of a proposed 2-Lot Subdivision, SBL # 58-2-11.2. Final Approval was granted on, 12/5/07. *The applicant's attorney has been conferring with Planning Board's attorney regarding the required Private Road Notes, Declarations, and Recording Information which must be provided. Mr. Bollenbach has requested a legal description of Riley Court. The applicant is currently securing a document from their Surveyor in order to provide this information. The 2nd 90-Day Extension becomes effective on, 9/5/08.*

Mr. Bollenbach: They have secured the service of a local surveyor. They are describing the portion of Riley Court that is to be paved. I would be in favor of giving them the extension.

Mr. McConnell makes a motion on the Perry Subdivision, granting a 2nd 90-Day Extension on final approval of a proposed 2-Lot subdivision, SBL # 58-2-11.22. Final Approval was granted on, 12/5/07. The 2nd 90-Day Extension becomes effective on, 9/5/08.

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

5. **Jordan Subdivision** – Letter from Lehman & Getz Engineering, dated 9/11/08 addressed to the Planning Board – in regards to Jordan Subdivision requesting 1st 90-Day Extension on Final Approval of a proposed 3-Lot cluster subdivision, SBL # 55-1-27.2. Final Approval was granted on, 4/16/08. *The applicant is currently finalizing the legal documents that are required prior to signature, and the process has taken longer than expected.* The 1st 90-Day Extension becomes effective on, 10/16/08.

Mr. Kowal makes a motion on the Jordan Subdivision, granting a 1st 90-Day Extension on Final Approval of a proposed 3-Lot cluster subdivision, SBL # 55-1-27.2. Final Approval was granted on, 4/16/08. The 1st 90-Day Extension becomes effective on, 10/16/08.

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

6. **Sandra S. Ansley Subdivision** - Letter from Kirk Rother, P.E., dated 9/10/08 addressed to Planning Board – in regards to Ansley Subdivision requesting “***Re-Approval***” of Final Approval of a proposed 4-Lot subdivision, SBL # 63-1-16. Final Approval was granted on 8/15/07. *The applicant is in the process of submitting the final plans and mylar for Planning Board Chairman’s signature.* Re-Approval of Final Approval becomes effective on, 8/15/08, subject to the conditions of final approval granted on, 8/15/07.

Mr. Singer makes a motion on the Sandra S. Ansley Subdivision, granting “***Re-Approval***” of Final Approval for a proposed 4-Lot subdivision, situated on tax parcel S 63 B 1 L 16; parcel located on the eastern side of Wawayanda Road one mile southeast of intersection with Route 94, in the MT zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on 8/15/07. (See attached)

Re-Approval of Final Approval becomes effective on, 8/15/08.

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

7. **Planning Board Minutes of 8/20/08** – Planning Board Minutes of 8/20/08 for Planning Board Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 8/20/08.

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

Correspondences:

1. Better Site Design Workshop – to be held on Friday, 10/3/08 from 9:00 a.m. – 3:00 p.m. at the Newburgh Free Library.
2. 2008 Planning & Land Use Course – to be held on Thursdays, 7:30 p.m.-9:30 p.m. 9/25/08 through 10/30/08 (excluding 10/9/08). Registration Form is due by 9/18/08.

Mr. Astorino: Correspondences 1 and 2 are in our packets. If anyone is interested in any of those items, you will need to sign up quickly.

Mr. McConnell: I am signed up for the one Better Site Design Workshop on 10/3/08. If anyone wants to go, we could carpool together.

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 am aware in sending the Brian Singer 2-lot subdivision to the ZBA that they do not have greater than a 14 or 15 foot easement. In doing so, they would have 3 homes using the easement. Is there access?

Mr. Bollenbach: That is something you should discuss with the ZBA.

Mr. Astorino: We will send along your letter with the letter that we have for the ZBA.

Mr. Bollenbach: Yes. We will include it.

Phyllis Briller: There seems to be nothing in your thought process that we suggest that the first thing that should be evaluated is whether or not 14 or 15 feet is an acceptable width for 3 houses.

Mr. Astorino: When and if the applicant comes back to us, we will look at that.

Phyllis Briller: At that point, they will have an approval from the ZBA.

Mr. Astorino: If they do, I cannot answer that question. That is hypothetical at this point. They have not received ZBA approval yet. If and when they do, we will address that issue back here. I don't know if they will or not.

Phyllis Briller: What requirements does the Planning Board have to accept or not to accept the approval of the ZBA?

Mr. Astorino: I think the ZBA has the authority to make that determination.

Phyllis Briller: They have the authority to make the determination for a variance...

Mr. Bollenbach: It would be for a 280a variance and the number of lots accessing onto a Private road.

Phyllis Briller: It is not a Private road. It is a shared driveway. Briller Road is a shared driveway. The road that the Singer's are suggesting is a shared driveway. So, you are aware that you will have a shared driveway merging onto another shared driveway.

Mr. Bollenbach: I suggest that you bring it to the attention of the ZBA.

Phyllis Briller: Thank you.

Mr. Astorino: Is there anyone else?

Brian Singer: The deed lieber 2172 says 28 to 30 feet. The deed specifies it. It is in my deed. The 14 to 15 feet is not there.

Phyllis Briller: It is not in the deed.

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

Mr. McConnell makes a motion to adjourn the September 17, 2008 Planning Board meeting.

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