

TOWN OF WARWICK PLANNING BOARD

September 19, 2007

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 19, 2007, 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 Black Meadow Club**

Application for site plan approval and special use permit for the construction and use of a 5-foot high chain link fence running a total of 4100 feet and clearing over ¼-acre in the Ridgeline Protection Overlay District, situated on tax parcels S 23 B 1 L 2 and S 23 B 1 L 30; project located on the eastern side Black Meadow Road 3600 feet north of East Ridge Road, in the LC/RU zones, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the 7/18/07 Planning Board meeting.

Representing the applicant: Edward Marron, Applicant. Michelle Babcock, Attorney from Jacobowitz & Gubits.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
  - A. Status of legal proceedings.
  - B. July 17, 2007 letter from Garling Associates and August 31, 2007 letter from Jacobowitz & Gubits.
3. Applicant has cleared approximately 0.8 Acres of trees and vegetation on their property along a portion of their boundary for the purpose of constructing a fence. The site is located in the Ridgeline Overlay District where permission from the Planning Board is required for clearing in excess of 0.25 Acres.
  - A. Plan shows approximately 1300 feet of disputed boundary. If a fence is intended along this boundary after resolution of the dispute, show the limits of clearing and dimension.
  - B. Applicant to discuss mitigation plantings. Note type of seeding in disturbed areas.
  - C. Applicant to revise application to include a Timber Harvest Permit per §164-47.1F(3)(c)[2][a]. Provide the following information:
    - a. Total land area involved in cutting operations.
    - b. The number of trees to be cut.
    - c. Access roads into area to be cleared.
    - d. Location of product loading areas.
    - e. Place the following notes on the plan:
      - “Loading areas shall be smoothed to remove all ruts and debris. Waste materials shall be buried or removed to a point out of sight of adjacent

residences and roads. There shall be no burning of waste material or cleared brush except in controlled areas supervised by the Warwick Fire District.”

- “No harvesting, cutting or sawmill operations or removal of products shall take place between the hours of 7:00 p.m. and 7:00 a.m. nor at any time on Sundays or legal holidays.”
- f. Install water bars and other appropriate soil erosion control measures per the *NYS Standards & Specifications for Erosion & Sediment Control*. Provide details on the plans and calculations, as required.
4. Applicant proposes the construction of a 5-foot tall chain-link fence with gates along the property line. Locate the gates on the plan.
5. Applicant shall obtain all building department permits for tree clearing and fence construction.

**BEFORE FINAL APPROVAL:**

6. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes. Note the recordation date and provide a copy of the recording receipt to the Planning Board Attorney.
7. Pay performance bond and construction inspection fee for tree clearing and mitigation landscaping.
8. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 9/19/07:

Black Meadow Club - The CB is concerned that the 4100-foot fence will interfere with wildlife migration or normal movement. Are there any species that could be adversely affected?

The following comment submitted by the ARB, dated 9/13/07:

Black Meadow Club - See previous recommendation. If vinyl clad chain link fence is the choice, some type of landscaping plan should be submitted in order to blend fencing into the landscaping.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning has already declared itself Lead Agency on this application. We are in the process of gathering information related to SEQR. The review comments have a number of requests for information that is directly related to potential SEQR review of the project.

Comment #2: Applicant to discuss project.

Edward Marron: At the last work session, we were asked to provide a considerable amount of additional information. At that time, I thought that I would not be able to get that accomplished. We would appreciate that the matter be held over to the November 21<sup>st</sup> meeting. We would like to prepare for that and get you the appropriate answers for the questions that were raised. We would like to do it in an orderly fashion.

Mr. Astorino: Ok. You will get us more information. We will list comments 2-A through 8 for the record. This is a public hearing. Do any Board members or Professionals have any comments? If there is anyone in the audience wishing to address the Black Meadow Club application, please rise and state your name for the record.

- A. Status of legal proceedings.
- B. July 17, 2007 letter from Garling Associates and August 31, 2007 letter from Jacobowitz & Gubits.

Comment #3: Applicant has cleared approximately 0.8 Acres of trees and vegetation on their property along a portion of their boundary for the purpose of constructing a fence. The site is located in the Ridgeline Overlay District where permission from the Planning Board is required for clearing in excess of 0.25 Acres.

- A. Plan shows approximately 1300 feet of disputed boundary. If a fence is intended along this boundary after resolution of the dispute, show the limits of clearing and dimension.
- B. Applicant to discuss mitigation plantings. Note type of seeding in disturbed areas.
- C. Applicant to revise application to include a Timber Harvest Permit per §164-47.1F(3)(c)[2][a]. Provide the following information:
  - a. Total land area involved in cutting operations.
  - b. The number of trees to be cut.
  - c. Access roads into area to be cleared.
  - d. Location of product loading areas.
  - e. Place the following notes on the plan:
    - “Loading areas shall be smoothed to remove all ruts and debris. Waste materials shall be buried or removed to a point out of sight of adjacent residences and roads. There shall be no burning of waste material or cleared brush except in controlled areas supervised by the Warwick Fire District.”
    - “No harvesting, cutting or sawmill operations or removal of products shall take place between the hours of 7:00 p.m. and 7:00 a.m. nor at any time on Sundays or legal holidays.”
  - f. Install water bars and other appropriate soil erosion control measures per the *NYS Standards & Specifications for Erosion & Sediment Control*. Provide details on the plans and calculations, as required.

Comment #4: Applicant proposes the construction of a 5-foot tall chain-link fence with gates along the property line. Locate the gates on the plan.

Comment #5: Applicant shall obtain all building department permits for tree clearing and fence construction.

**BEFORE FINAL APPROVAL:**

Comment #6: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes. Note the recordation date and provide a copy of the recording receipt to the Planning Board Attorney.

Comment #7: Pay performance bond and construction inspection fee for tree clearing and mitigation landscaping.

Comment #8: Pay outstanding review fees.

Mr. Lipman: Is this public hearing going to be held over?

Mr. Astorino: It will be adjourned to another meeting date.

Mr. Lipman: When would you make the decision to what date the public hearing would be adjourned to?

Mr. Astorino: We will do that right now.

Mr. Bollenbach: Is there any further public comment?

Mr. Lipman: I have further public comment?

Mr. Astorino: Would you like to offer that?

Mr. Lipman: I will wait until I see what comes in.

Mr. Astorino: Ok. Is there anyone else wishing to address the Black Meadow Club application? Seeing that there are none, we would like to take a motion to adjourn the public hearing to the November 21<sup>st</sup> meeting which is the night before Thanksgiving. What is the Board's feeling?

Mr. McConnell: I will be here.

Mr. Singer: I don't know.

Mr. Kowal: I will be out of town.

Mr. Showalter: I will be here.

Mr. Astorino: I will be here.

Mr. Bollenbach: I will be here.

Zen Wojcik: I will be here.

Mr. Fink: I will be here.

Mr. Singer: Why don't we adjourn it to the first meeting in December?

Mr. Bollenbach: I will not be here for the first meeting of December.

Mr. Astorino: We will adjourn the public hearing to the November 21, 2007 Planning Board meeting.

**Mr. McConnell makes a motion to adjourn the public hearing to the November 21, 2007 Planning Board meeting.**

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

Mr. Astorino: To the public, the public hearing for Black Meadow Club has been adjourned to the November 21, 2007 Planning Board meeting. This is your notice. You will not received another notice. We will see what happens then.

Edward Marron: Thank you.

Michelle Babcock: Thank you.

**PUBLIC HEARING of Patricia McConnell, Diane Fotino, and Francis and Babbette Roy**

Application for final approval of a proposed 3-Lot subdivision, situated on tax parcel S 24 B 1 L 46; parcel located on the eastern side of Glenwood Road (County Route 26) along the New York and New Jersey State border, in the RU zone, of the Town of Warwick, County of Orange, State of New York.

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

Representing the applicant: Chris Guddemi, LAN Associates. Mrs. McConnell, applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  2. Applicant to discuss project.
  3. The remainder of Lot 46 is a flag lot. Board to discuss waiver.
  4. Provide erosion control measures on plans and provide details. Show stabilized construction entrance on proposed Lot 46.01. Use a consistent symbol for silt fence and show installed in locations as required by *NYS Standards*.
  5. Provide a grading detail for remaining Lot 46 driveway entrance. Board to discuss waiver from paving driveway.
- BEFORE FINAL APPROVAL:**
6. Provide 9-1-1 addressing.
  7. Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes and Radon Reduction Notes.
  8. 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. Provide a detail for the stone cairn.
  9. Pay parkland fees.
  10. Pay outstanding review fees.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-21K(2)	Shape of lots – waiver for a flag lot.
§137-21K(2)(a)[3]	Flag lot – waiver from paving of driveway

The following comment submitted by the Conservation Board, dated 9/19/07:

Patricia McConnell, et. al – The CB has no further comments.

The following comment submitted by the ARB, dated 9/13/07:

McConnell / Fotino - Please submit architectural drawings to the ARB for review prior to obtaining building permit, and please consult with the ARB concerning cladding and other exterior elements.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. There were a number of environmental issues that we have looked at during the SEQR review process. The property contains extensive NYS protected Freshwater wetlands, floodplains, and Pochuck Creek. The lot that is proposed that contains most of these water resources has been proposed for dedication to the Orange County Land Trust for public use. Those areas will be protected and preserved in perpetuity. This project lies in the Town's Aquifer Protection Overlay District. That is largely in the area that is underlying by the water resources. The aquifer is within the area of the floodplains, Pochuck Creek. None of the proposed construction on the other (2) building lots are proposed within the area of the Aquifer Protection Overlay District. Map notes have been placed on the subdivision plans. It will be put into the deeds regarding the restrictions that are in place within this area. There is another issue regarding Franklin Marble, which is present within this area of the Town. With regard to that as well as radon gas which is associated with the Franklin Marble, those notes have also been placed on the plans.

Comment #2: Applicant to discuss project.

Chris Guddemi: This project is a proposed 3-lot subdivision. As Ted had said, 30 acres will be donated to the Orange County Land Trust. The remaining 15 acres will be split up into one (10)-acre parcel and one (5)-acre parcel. Both of those parcels will be for residential purposes. This project is located north of the New Jersey boarder on the easterly side of C.R. 26.

Comment #3: The remainder of Lot 46 is a flag lot. Board to discuss waiver.

Mr. Astorino: Zen, is that because of the way the property is shaped?

Zen Wojcik: Yes.

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

Mr. Bollenbach: That lot will not be used for residential purposes.

Mr. McConnell: Will that be marked on the map as "not for residential purposes"?

Mr. Bollenbach: That will be on the map. It is a conservation easement.

Mr. Astorino: It is going to the Orange County Land Trust.

Mrs. McConnell: It is not a conservation easement. It is an out right donation to the Land Trust.

Mr. Bollenbach: Declarations will be placed on the property so that it could only be used for those particular open space purposes.

Comment #4: Provide erosion control measures on plans and provide details. Show stabilized construction entrance on proposed Lot 46.01. Use a consistent symbol for silt fence and show installed in locations as required by *NYS Standards*.

Chris Guddemi: Ok.

Comment #5: Provide a grading detail for remaining Lot 46 driveway entrance. Board to discuss waiver from paving driveway.

Mr. Astorino: It is an open space lot deeded to the O.C. Land Trust. I don't think it would make sense to put any paving out there. Is everyone in an agreement with that?

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Singer: Yes.

Mr. Showalter: Yes.

Chris Guddemi: I want to add to that. At the workshop, we discussed the grading detail. We are not going to extend the driveway entirely into the property as shown on the last revised plans. We will update those plans.

Zen Wojcik: You will need to show the driveway entrance.

Chris Guddemi: Yes.

Mrs. McConnell: An Orange County Land Trust representative was supposed to be here this evening. I don't see her.

Mr. Astorino: That is fine. We all know the gist of what will happen out there.

Mr. Bollenbach: Is that Carissa Haberland?

Mrs. McConnell: Yes.

**BEFORE FINAL APPROVAL:**

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

Chris Guddemi: Yes.

Comment #7: Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes and Radon Reduction Notes.

Chris Guddemi: Yes.

Mr. Bollenbach: Also add to that comment, Franklin Marble and open space notes.

Chris Guddemi: Regarding the open space, we discussed that it did not pertain to this application.

Mr. Bollenbach: It specifically does pertain to this application. There is no septic or percs. It is going to be an open space parcel. There will be open space notes for that particular parcel and the recorded declaration.

Chris Guddemi: It would be in the declaration, not on the plans itself.

Mr. Bollenbach: It will also be on the plans.

Chris Guddemi: Ok.

Comment #8: 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. Provide a detail for the stone cairn.

Chris Guddemi: Ok.

Comment #9: Pay parkland fees.

Chris Guddemi: Ok.

Comment #10: Pay outstanding review fees.

Mrs. McConnell: We discussed that the other night at the workshop. We are already donating 30 acres. Do we still have to pay parkland fees?

Mr. Bollenbach: Parkland fees are required for additional residential lots. It is a 3-lot subdivision. We started with one lot. You get one lot free. The other lot is an open space lot. That lot is not residential. That is a free lot. You have one additional residential lot. You have to pay parkland fees for one parcel.

Mrs. McConnell: Ok.

Mr. Bollenbach: If you would like to bring that up to the Town Board, you are welcome to do that.

Mr. Astorino: That would be the place to bring it up.

Mrs. McConnell: Yes.

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

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-21K(2)	Shape of lots – waiver for a flag lot.
§137-21K(2)(a)[3]	Flag lot – waiver from paving of driveway

Mr. Singer: I would like to mention to the applicant that if they are waiting for Carissa, you will have a long wait. She no longer works for O.C. Land Trust.

Mrs. McConnell: I know that. I have spoken to her today. She said that she would be here tonight.

Mr. Astorino: This is a public hearing. If there is anyone in the audience wishing to address the Fotino-McConnell application, please rise and state your name for the record. Let the record show no public comment.

Mr. Showalter makes a motion for the Negative Declaration.

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

617.12(b)

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

**Name of Action:** McConnell and Fotino Subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed three (3) lot subdivision, Town of Warwick, Orange County, New York, and

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

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 3/28/07, 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. Singer makes a motion to close the public hearing.

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

Mr. McConnell makes a motion on (2) waivers for shape of lots – waiver for a flag lot and flag lot – waiver from paving of driveway.

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

Mr. Kowal makes a motion on the Patricia McConnell, Diane Fotino, and Francis and Babbette Roy application, granting final approval for a proposed 3-Lot subdivision, situated on tax parcel S 24 B 1 L 46; parcel located on the eastern side of Glenwood Road (County Route 26) along the New York and New Jersey State border, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

1. Provide erosion control measures on plans and provide details. Show stabilized construction entrance on proposed Lot 46.01. Use a consistent symbol for silt fence and show installed in locations as required by *NYS Standards*.
2. Provide a grading detail for remaining Lot 46 driveway entrance. Board to discuss waiver from paving driveway.
3. Provide 9-1-1 addressing.
4. Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, Open Space, Franklin Marble, and 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. Provide a detail for the stone cairn.
6. Pay Parkland Fees for 1-Lot.
7. Pay Outstanding Review Fees.

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

**Review of Submitted Maps:*****Warwick North Communications Facility / Dobson Cellular Systems***

Application for site plan approval for the construction and use of co-location of antennas on an existing communications tower and installation of pad mounted radio equipment and wood fencing, situated on tax parcel S 19 B 1 L 47.21; project located on the western side of Route 94 500 feet north of Minturn Road, in the MT zone, of the Town of Warwick.

Representing the applicant: Tony Stellato from Clough Harbour Associates.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. North is incorrectly shown on the Site Vicinity Plan. Revise and note the location of State Route 94-17A.
4. Place a note on the Site Plan and Site Detail plan that the excavation for crushed stone shall be filled with stone on the same day or erosion control measures consistent with *NYS Standards & Specifications for Erosion & Sediment Control* must be installed.
5. The Project Narrative refers to a "10'x16' lease space", while the Site Plan refers to a "10'x23' lease area". Applicant to clarify.
6. The applicant has provided Interference Certification by a radio frequency technical expert and a statement of structural soundness by a NYSPE for the Board's consideration and approval. (§164-80B(2) & (3))
7. The 4-page FCC Radio Station Authorization provided by the applicant does not include the applicant's location. Applicant to discuss.
8. Provide certification that the ground mounted equipment proposed for the site will not generate noise in excess of 50dB at the property line and that the total noise generated by all equipment at the site will not exceed 50dB at the property line.
9. Update Emergency Management Service Plan for new tenant.
10. Revise note on the Site Plan; applicant shall replace in kind any trees removed or damaged by construction.
11. Within 90 days of beginning operations, submit measurements of RFR & noise to the Building Inspector, per §164-83A(1) & (2).

The following comment submitted by the Conservation Board, dated 9/19/07:

Warwick North Communication Facility – CB has no further comments.

The following comment submitted by the ARB, dated 9/13/07:

Warwick North Communication Facility – ARB has no comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has provided us with a short EAF. I have reviewed the EAF. I have prepared a Resolution establishing Lead Agency.

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

617.6

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

Name of Action:    Dobson Cellular Systems Co-Location on an Existing  
Telecommunications Tower

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application by Dobson Cellular Systems d/b/a Cellular One for a ± 57 acre parcel of land located at 675 Route 94, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 7/09/07 was submitted at the time of application, and

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

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

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

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

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

Comment #2: Applicant to discuss project.

Tony Stellato: This project is a co-location for a wireless communication on an existing tree type monopole located on Gary Randall's property on Route 94. It is a large piece of property. There is about 50± acres. The monopole is well buffered by Mr. Randall's property. Cellular One will be located at 77 feet on the tree. Branches will be taken off the tree then put back on. It would be camouflaged as it is designed for. I think this Board has seen the original plan for the tree. It was contemplated that it was suitable for co-location. The equipment that Cellular One proposes is pretty much identical to putting the cabinet that is out there that T-Mobile has at the site. It is a cabinet. It is not a building. It is about the size of a refrigerator. There is no generator. There is no air-conditioning. There is a cooling fan in the unit which seldom comes on. If it does come on, it is well below the noise standards. It is about 45db. It is a quiet whisper. It won't result in any noise at the property line. It is well below the thresholds of the Town. There would be very little site work involved in this installation. The concrete pad is there. The equipment will go on the existing concrete pad. There is a wooden fence that surrounds the monopole right now. We will be extending that fence by 9 feet in direction of our equipment. Our equipment would be inside that wooden fence. In reality what we would do is take the end of the fence off. We would move it back 9 feet. We would add a section on each side and a small gate so that we would have access to our equipment. The site work involved would be in doing that fence extension, the fence would now be located off the concrete pad by 3 feet. We will fill in that 3-foot strip with crushed stone. There would be no disruption of the trees that are there. Some trees were planted when the monopole was put in. They won't be disturbed.

Comment #3: North is incorrectly shown on the Site Vicinity Plan. Revise and note the location of State Route 94-17A.

Tony Stellato: Yes.

Comment #4: Place a note on the Site Plan and Site Detail plan that the excavation for crushed stone shall be filled with stone on the same day or erosion control measures consistent with *NYS Standards & Specifications for Erosion & Sediment Control* must be installed.

Tony Stellato: No problem.

Comment #5: The Project Narrative refers to a 10'x16' lease space", while the Site Plan refers to a "10'x23' lease area". Applicant to clarify.

Tony Stellato: It is 10'x16'. We originally designated a 10 'x16' lease area. Then, just to make sure that we had enough room to get clearance, we needed a little bit more space. We actually took 10'x20' from Mr. Randall. Then, we took 10'x23' from T-Mobile because there was a little bit of an overlap. We ground lease from both T-Mobile and Gary Randall. The ground lease from T-Mobile is a little bit bigger because of the way they were leased where Mr. Randall is.

Mr. Astorino: Essentially, it is 10'x23' maximum.

Tony Stellato: Yes.

Comment #6: The applicant has provided Interference Certification by a radio frequency technical expert and a statement of structural soundness by a NYSPE for the Board's consideration and approval. (§164-80B(2) & (3).

Zen Wojcik: According to the Code, this information is for the Board to take a look at. You have to approve the report.

Mr. Astorino: Doesn't Clint Smith do most of the reviews?

Zen Wojcik: We have a letter with comments from the Town of Warwick Wireless Committee, dated 9/18/07. That should be included as well.

Mr. Astorino: Ok.

Comment #7: The 4-page FCC Radio Station Authorization provided by the applicant does not include the applicant's location. Applicant to discuss.

Tony Stellato: That is item #6 in your books that was submitted. The FCC license is not reissued continuously every time a site is brought on line. This particular permit was renewed in January 2004. It runs until November 2008, at which time the FCC would renew it. Every time a new site is brought on line that is after it is constructed and the radios are operating, a notification is sent by Cellular One to the FCC. The FCC adds it to the license. Then when they reissue the license all of the new sites that were added to the system since 2004 would be on the license. This is the way the FCC does it. The license is good. It is valid. They never include all the sites on the system because the carriers are always adding sites. The site would never appear on the license until it is operating.

Zen Wojcik: I would like to point out to the Board a comment from the Wireless Committee, comment #4. *"The application for a special use permit indicates the applicant as Dobson Cellular Systems. The plans indicate the applicant as Dobson Cellular systems d/b/a Cellular One. The FCC Radio Station authorization (FCC License) indicates the licensee as American Cellular Corporation. The relationship of these business entities should be clarified.*

Tony Stellato: Dobson Cellular System is the parent company based in Oklahoma that owns all of that.

Zen Wojcik: You could provide clarification.

Tony Stellato: I thought I had done that.

Mr. Bollenbach: It should be in documentation format.

Tony Stellato: It might be in here somewhere. I would have to dig it up.

Mr. Astorino: If you could, bring it to our attention. If not, provide it.

Tony Stellato: Ok.

Comment #8: Provide certification that the ground mounted equipment proposed for the site will not generate noise in excess of 50dB at the property line and that the total noise generated by all equipment at the site will not exceed 50dB at the property line.

Tony Stellato: Other than...?

Mr. Bollenbach: It is certification. There is a certification required in the Code within 90-days of commencing operation. Certification needs to be provided.

Tony Stellato: No problem.

Comment #9: Update Emergency Management Service Plan for new tenant.

Tony Stellato: I am not sure what that is.

Zen Wojcik: The existing site has an Emergency Management Service plan which is inquired by the code. That right now is framed only for T-Mobile. They will be collocating on the pole. They would have to amend the plan. That is what we need. We need an amendment to the plan.

Tony Stellato: How do I get a copy of that plan?

Zen Wojcik: You are listing it from T-Mobile. I would suggest that you ask them for the plan.

Tony Stellato: Did they submit it to the Town?

Zen Wojcik: Yes. Ask the person that you are leasing from to get you one.

Tony Stellato: Ok. That is more complicated than it sounds. Is there a way you could hand me a copy of the plan.

Zen Wojcik: I can't get it to you tonight. I will get it out to you tomorrow.

Tony Stellato: Ok. That would be great. Is it up to us to update the plans or is it T-Mobile?

Zen Wojcik: You are collocating on the pole.

Mr. Astorino: You have the application before you. We would ask you for it.

Mr. Bollenbach: You would have to work it out together. We need one plan for the location.

Tony Stellato: Ok.

Comment #10: Revise note on the Site Plan; applicant shall replace in kind any trees removed or damaged by construction.

Mr. Astorino: You said that there are none to be removed.

Tony Stellato: Correct.

Mr. Bollenbach: Just keep the note.

Comment #11: Within 90 days of beginning operations, submit measurements of RFR & noise to the Building Inspector, per §164-83A(1) & (2).

Tony Stellato: Right. We just talked about that.

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

Zen Wojcik: Mr. Chairman, please take the comments from the Wireless Committee and put them into the record.

Mr. Astorino: We have a letter from the Town of Warwick Wireless Committee, dated 9/18/07 for the record.

*September 18, 2007*

*Town of Warwick Wireless Committee  
132 Kings Highway  
Warwick, New York 10990*

*RE: Application for Dobson Cellular Systems*

*Dear Committee Members:*

*GENERAL*

*An application has been submitted to the Town of Warwick Planning Board for Site Plan approval requesting a location on a existing monopole on property owned by Gary Randal at 675 Route 94, Warwick, New York. Plans indicate the existing monopole has a total height of 100' with the midpoint of the existing antennas being located at 97'. The newly proposed antennas are proposed at 77' above ground level. The applicant proposes two sectors with two antennas per sector for a total of four new antennas.*

*Items reviewed:*

*Site Plan prepared by Clough Harbour & Associates.  
Application Packet prepared by Clough Harbour and Associates  
Technical Review letter by Tectonic Engineering*

- 1. In accordance with Section 164-80(C) (9) (A) of the Zoning Ordinance, existing color photographs of the use of the site shall be provided as part of the application, along with proposed simulations. It is understood that this is an existing tower utilizing camouflage technology which is encouraged; however, the Planning Board may wish to consider requesting the required photographs to aide in assessing the visual impacts.*
- 2. In accordance with Section 164-83 (A) of the Zoning Ordinance "The applicant shall submit within 90 days of beginning operations... existing measurements of RFR from the Wireless Telecommunication facility and existing measurements of noise from the Wireless Telecommunication facility." The Wireless Committee is not aware of these materials being provided to the Town of Warwick Building Department for the existing facility. The Planning Board may wish to consider that these materials be provided prior to granting an approval of the proposed expansion.*

3. *In accordance with Section 164-79 (C1) of the Zoning Ordinance - The tower owner shall submit evidence of compliance with FCC Guidelines on a yearly basis to the Town of Warwick Planning Board. In addition to the 90 day measurements of RFR and noise (mentioned in Comment #2 above) these materials may now be due.*
4. *The application for a Special Use Permit indicates the applicant as Dobson Cellular Systems. The plans indicate the applicant as Dobson Cellular systems d/b/a Cellular One. The FCC Radio Station authorization (FCC License) indicates the licensee as American Cellular Corporation. The relationship of these business entities should be clarified.*
5. *Has an As-Built Survey of the existing facility been provided to the Town of Warwick Building Department. Sheet #2 of the plan set indicates that the side-yard setback of 395' and 366' provided, however, the 300' radius from the Tower is shown as almost touching the existing property line. The Planning Board may wish to have the applicant check this discrepancy for accuracy.*
6. *Has the required signage established in Section 164-79 (A3) been provided? The photographs of the existing facility provided by the applicant do not show any signage. The code indicates that signage indicating: no trespassing, 24-hour emergency contact numbers, property owner information and any other applicable warning signs are to be provided.*
7. *Sheet #3 of the plan set depicts a 10' x 23' lease area with one equipment shelter shown in bold line type with two additional equipment shelters labeled as "Growth Cabinets". The actual cabinet dimensions do not appear to be shown on the plan, nor is the intent of the Growth Cabinets apparent. Does the applicant plan to expand on this site in the future? If so, it is the committee's understanding that a separate application or Special Use would be required at that time. Accordingly, the committee questioned the purpose of the Growth Cabinets.*

### CONCLUSIONS

*The applicant proposes to co-locate an existing wireless facility which currently uses camouflage technology. This is the type of expansion of wireless facilities encouraged by the Zoning Ordinance and generally speaking it is the Wireless Committee's opinion that the current application is an appropriate expansion of the existing facility.*

Zen Wojcik: There are two comments in the Wireless Committee's letter that needs to be brought up tonight. Comment # 3 and #5.

Mr. Astorino: Comment #3 reads; "*In accordance with Section 164-79 (C1) of the Zoning Ordinance - The tower owner shall submit evidence of compliance with FCC Guidelines on a yearly basis to the Town of Warwick Planning Board. In addition to the 90 day measurements of RFR and noise (mentioned in Comment #2 above) these materials may now be due.*" They are due now from T-Mobile.

Zen Wojcik: I spoke to the Building Inspector. The T-Mobile tower just went on line about 3 months ago. They need their 90-day measurements. That has not yet been received by the Town.

Mr. Astorino: Does that come to the Planning Board or to the Building Department?

Zen Wojcik: It has to go to the Building Department.

Mr. Astorino: The Building Department would have to send an Order of Remedy or some type of notice to them that they do not comply.

Zen Wojcik: But this application is before the Board.

Mr. Astorino: Ok. That would be another comment.

Zen Wojcik: I would suggest that all these comments be incorporated into the comments.

Mr. Astorino: I have no problem with that.

Zen Wojcik: Mr. Chairman, there is another comment, comment #5.

Mr. Astorino: Comment #5 reads; *“Has an As-Built Survey of the existing facility been provided to the Town of Warwick Building Department. Sheet #2 of the plan set indicates that the side-yard setback of 395' and 366' provided, however, the 300' radius from the Tower is shown as almost touching the existing property line. The Planning Board may wish to have the applicant check this discrepancy for accuracy.”*

Zen Wojcik: Mr. Chairman that is referring to the applicant's plan. It appears that there is an inaccuracy over there that needs to be clarified.

Mr. Astorino: Ok. These comments are to the applicant. We want them all addressed.

Zen Wojcik: Yes.

Tony Stellato: How would you like that addressed? The mapping that exists for the site that was submitted with the original special use permit to build the tower was not a survey. It was a tax map.

Zen Wojcik: It needs to have an asbuilt survey.

Mr. Astorino: Provide it to the Building Department.

Tony Stellato: Is what you are asking for is a boundary survey of Mr. Randall's property?

Zen Wojcik: We are asking for an asbuilt survey.

Tony Stellato: Does that mean you want a boundary survey?

Zen Wojcik: We want to know where the tower is relative to the boundaries of the property.

Tony Stellato: Ok.

Mr. Astorino: Omnipoint was supposed to provide that to the Building Department. They have not done that.

Tony Stellato: They were supposed to go out and actually do a boundary survey?

Mr. Astorino: They were supposed to do an asbuilt survey of the existing facility.

Tony Stellato: Our plans do include an asbuilt survey but it is not a boundary survey. The 2<sup>nd</sup> sheet of the plans shows the layout of the tower.

Zen Wojcik: Is that actually asbuilt information?

Tony Stellato: The overall plan with the radius shown on it is a tax map base drawing.

Zen Wojcik: That is where the problem is.

Tony Stellato: That was what the original tower was approved with. It was approved with at tax map based survey. I don't understand how this Board could approve a tower to be built with that kind of a survey. Then, you come and ask for a co-locator to provide a \$20,000.00 boundary survey to prove that the tower owner did what they were supposed to do. I don't think that is reasonable.

Zen Wojcik: You are leasing space from T-Mobile.

Tony Stellato: Right.

Zen Wojcik: T-Mobile needs to provide this information.

Tony Stellato: That is easier said than done.

Mr. Astorino: Not for us. The Building Department could cite them and be done with it. You are before this Board asking to grant an approval as a co-locator on this tower. Apparently they did not follow through what they were supposed to be doing.

Tony Stellato: Why would you want to put my client in between business?

Mr. Astorino: Because, you are before this Board right now.

Mr. Bollenbach: It is that property. It is that location.

Tony Stellato: But this is business between the tower owner and the Town.

Mr. Astorino: I don't think that anyone on this Board is going to grant any approvals on an application that we know is in violation. This is in violation. You are looking to put extra equipment on this tower, collocate on this tower. Is that correct?

Tony Stellato: Right.

Mr. Astorino: As far as I am concerned, this tower is in violation right now because they did not provide what is on their maps to the Building Department.

Mr. McConnell: When you do your lease, you get them to represent that the tower asbuilt meets as specifications that are required by the Town Code.

Tony Stellato: Please clarify for me how they are going to approve that the tower is built where it is supposed to be built.

Mr. Bollenbach: They would get a survey.

Tony Stellato: They would actually have to do a boundary survey of Mr. Randall's property.

Mr. Bollenbach: They would have to get a survey to show what the distance is from the property line.

Tony Stellato: Do you realize that is a \$20,000.00 undertaking.

Mr. Bollenbach: We are looking at the fall zone. You get a surveyor to locate it. Whatever he charges that is it.

Tony Stellato: They would have to do a boundary survey of the whole property. How else would they locate that?

Mr. Bollenbach: I don't know.

Tony Stellato: I don't see how that is a reasonable comment from this Board given that the tower was approved without a boundary survey. It was approved on a tax map.

Mr. Bollenbach: That was a condition of the site plan approval.

Mr. Showalter: They never submitted the survey.

Tony Stellato: Right now, T-Mobile is on the air. My client runs a competing cellular business in town. What compels T-Mobile to act with any kind of urgency on this matter? Cellular One doesn't have service in this area. Eventhough they are leasing space to Cellular One, they are competitors. It is not in T-Mobile's interest to help us out here. There is nothing to compel them to get this done quickly. Meanwhile, they have customers. My client is losing customers to them.

Mr. Bollenbach: If they are in violation, an Order of Remedy would be issued. You would be before Justice Court. They could impose up to a \$1,000.00 a week fine. They could take as long as they wish. The Town could also get an order to pull the plug. They are not complying with the site plan and special use permit that was originally granted.

Tony Stellato: I think that is easier said than done. When it comes down to it, you would find it would be very difficult to get them to pull the plug. All I am asking for is that this does not hold up my client's approval. We would like to keep moving. This is going to take months to work this out. If we are going to get delayed until those conditions are met to have our public hearing and action on our project, we are looking at sometime next year to have this thing done. All the while, you are keeping my client from establishing service in this area. You are allowing the party in violation to continue to take customers away from them. I don't think that is fair.

Mr. Bollenbach: That is not the Planning Board that is doing that.

Tony Stellato: You have it in your power to let us keep going.

Mr. McConnell: Are you asking us to allow you to continue with the process short of granting you final approval? Are you asking us to grant you final approval at some stage knowing that the tower is in violation?

Tony Stellato: I would ask the Planning Board to conclude its approval and make it a condition that the Building Permit not be issued until the issues are taken care of.

Mr. McConnell: It would still put you in the same position where you are not able to service your customers. I am not sure how it would improve your situation at all.

Tony Stellato: It would get us through this process. It is time consuming.

Mr. McConnell: When you signed the lease with T-Mobile, that should have been a condition of the lease where they were not in violation with any of the conditions of their special use permit. Are you telling me that your lawyers did not do that?

Tony Stellato: I am not certain.

Mr. McConnell: You are not certain. Why don't you go back and ask your lawyers about it? Why are you parading us about it?

Tony Stellato: I am not parading you.

Mr. McConnell: I am sorry, but you just told us that we were not reasonable.

Tony Stellato: I am asking you to allow us to continue so that we are not held up.

Mr. Astorino: If this Board wants to continue with the application, it seems to me that final approval would not be granted. At least the consensus that I am hearing from this Board is if you want to run through at your own risk that is not a problem. We would address the comments and keep going. But, if you don't want to address that comment or T-Mobile refuses to that is an issue that our Attorney pointed out whereas it would go through the Building Department, through the Courts of the Town of Warwick. Whatever happens at that point would happen. We don't do enforcement.

Tony Stellato: Under the Telecommunication Act 1996, I believe that it is your obligation as a Planning Board to afford equal treatment to all wireless carriers. Right now, what we have is a situation where an opportunity for T-Mobile to establish service, you are withholding an opportunity.

Mr. Astorino: We are reviewing an application that is before us. It has been brought to our attention that the party that you are going to co-lease space on is in violation at this time. I think that it is prudent for this Board to act extremely cautious to allow anyone else on that tower until they are not in violation. It seems to me that if we acted the opposite way to allow you to go ahead and grant you an approval would not make sense to me. We know that they are in violation, not you personally, but your lease holder is in violation on where you want to put this. If they don't want to comply, they have to go through the same thing as anyone else does. If we grant approvals and they don't comply with the regulations, they would get a Stop Work Order and an Order to Remedy.

Tony Stellato: If we bring this to T-Mobile, I don't know how they would react. I sense that it would not be an urgent matter for them. Is the Town going to write them a letter and let them know that they are in violation?

Mr. Astorino: I am sure that would be in the works to discuss it with the Building Department.

Mr. Bollenbach: I will discuss it with the Building Department tomorrow.

Mr. Astorino: That is why it is here.

Mr. Bollenbach: This is the first that it has been brought to my attention. I will bring it up to the Building Department and go from there.

Tony Stellato: Ok. Do you know who to send that to?

Mr. Astorino: I am sure that we have their contacts.

Mr. Singer: We have had trouble with contacts in the past.

Tony Stellato: If you look in the packet that I gave to you under Tab 3 there are the leases.

Mr. Astorino: Zen, do you have that?

Zen Wojcik: Yes.

Tony Stellato: The first few pages are the deed. After that, is the agreement between Omnipoint, which is T-Mobile, and American Cellular, which is us. Also included in that are the legal notices. They are current.

Mr. Astorino: Great. We will take care of that tomorrow morning. We will work through this and see where we end up.

Tony Stellato: Does this mean we are not going to have a public hearing at this point?

Mr. Bollenbach: We could set it for a public hearing. We would not conduct it until these issues are resolved.

Mr. Showalter: I think it would be a waste of your time to do it. Until your lawyers talk to T-Mobile people, you can't do anything until you solve that problem.

Mr. Bollenbach: You could set it for a public hearing to avoid the necessity of coming back again. If everything winds up being satisfactory, we don't know. Let us find out what the issues are. Then, we could go from there.

Mr. Astorino: It would be up to the Board. Does the Board want to set this for a public hearing at the next available agenda?

Mr. McConnell: It seems to me that we have quite a backup of public hearings and proposals in front of us. I am not sure that I would want to spend the time that may be months and months in the making. My opinion is no, I would not want to set them for a public hearing.

Mr. Astorino: Carl, what do you think?

Mr. Singer: I would like to set them for a public hearing.

**Mr. Singer makes a motion to set the Warwick North Communications Facility / Dobson Cellular application for a public hearing at the next available agenda.**

Seconded by Mr. Kowal. Motion carried; 3-Ayes and 2-Nays (Mr. McConnell and Mr. Showalter).

Mr. Astorino: Motion carried.

Mr. Singer: Please clarify something; you implied that the present owner of this tower doesn't have the right to say no to you they would have to accept you.

Tony Stellato: I don't know if that they don't have the right to say no to us. They may not. I haven't read the special use permit that they have with you. They might not have the right to say no. In the current, co-location has become a common place thing.

Mr. Astorino: You are paying them for the use of their space.

Tony Stellato: Yes. However, let us not forget that they are our landlord but also our main competitor in this market. Their business is providing cellular phone service. Their business is not renting tower space. They rent tower space because they have to.

Mr. Singer: They have to, why?

Tony Stellato: Because in order to survive in this market place they would have to share a place with other carriers.

Mr. McConnell: Because they are collocating on somebody else's tower.

Tony Stellato: It doesn't work anymore where everybody builds their own tower. You have to collocate in order to survive. You have to build these relationships. That doesn't mean that is your priority. Your priority is your customers and having better phone service than your competitors. Cellular One is their competitor. It is a strange game that we play.

Mr. Astorino: We will talk to the Building Department tomorrow and go from there.

Tony Stellato: Ok.

Mr. Astorino: That is our biggest issue at this point.

Tony Stellato: Ok. Thank you.

***IBM Sterling Forest Data Center***

Application for site plan approval and special use permit for the construction and use of (2) new accessory buildings, a chiller building and a generator building to be placed at current generator location, situated on tax parcel S 85 B 1 L 1.1; project located on the western side of Long Meadow Road 9500± feet north of Sterling Mine Road, in the LC zone, of the Town of Warwick. Previously discussed at the 8/15/07 Planning Board meeting.

Representing the applicant: Carl DiGregorio from IBM. Brian Lanson, Pennoni Engineering, and Roland Vasquez, Architect.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
    - A. Planner to discuss Full EAF, Visual Addendum.
  2. Applicant to discuss project.
  3. Mounting height for luminaires on poles is 30 feet; the pole-mounted lighting does not conform to §186.43.4I of the Code. Provide a plan with photogrammetric data and details showing conformance with the Code or obtain a variance from the ZBA. If a variance is sought, provide nighttime photos and a line-of-sight analysis showing that the existing lighting does not produce glare beyond the boundaries of the applicant's parcel.
  4. It was previously determined that surface soils in the vicinity of the proposed Chiller Building were Group XII soils designated by the Town Code as unacceptable for building construction. A Geotechnical Report submitted by the applicant has provided the results of soil borings in the project vicinity, but did not specifically address the Town's concerns.
    - A. Will the Chiller Building foundation be placed on rock or on soils which were found to be different than surface soils? Do these soils have sufficient bearing capacity for the proposed building?
    - B. At several locations in the Geotechnical Report (Sections 4.2 and 4.7), the engineer recommends blasting. Applicant and Board to discuss.
  5. Provide a design and stability calculations for retaining walls exceeding 4 feet in height. The Geotechnical Report provides design parameters but does not provide a design. In addition, Section 4.8 of the Geotechnical Report cites the results of stability analyses indicating "unacceptable factors of safety" for the slope adjacent to the proposed Generator Plant retaining wall. Applicant to discuss.
- ALL COMMENTS BELOW ARE UNCHANGED SINCE THE 8/15/07 MEETING.**
6. The applicant requests several waivers from the Ridgeline Overlay District design requirements. Board to discuss.
    - a. Building Height – Generator building is proposed to be 30 feet in height. Chiller building is proposed to be 44 feet in height. Maximum allowable is 24 feet.
    - b. Building footprint – Generator building is proposed to be 17,345 square feet. Chiller building is proposed to be 9,524 square feet. Maximum allowable is 7,500 square feet.
    - c. Impervious surface – Post-development impervious lot coverage is proposed to be 22%. Maximum allowable is 20%.
  7. As mitigation for exceeding Ridgeline Overlay District design requirements, the applicant proposes installation of online filtration systems on two of the stormwater discharges. Applicant to discuss.

8. At the Building Construction Guidelines (Drawing C8001), add that a schedule of the proposed work shall be provided to the Town Engineer prior to the start of construction.
9. Note on the Utility & Lighting Plan the make, model and type of luminaire mounted on “Relocated Light Poles”.
10. Note the mounting height of building mounted luminaires on the Utility & Lighting Plan. Mounting heights in excess of 35 feet will require a waiver.

**SWPPP**

11. Provide a copy of the completed NOI submitted to NYSDEC.

**BEFORE FINAL APPROVAL:**

12. Applicant to obtain building permits from the Building inspector. Provide information as required by §164-48D Performance Standards for noise and air quality considerations.
13. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes.
14. Pay performance bond and construction inspection fee for stormwater management facilities and erosion control.
15. Pay outstanding review fees.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§164-47.1F(2)	Ridgeline Overlay District. Design requirements; exceed maximum 25 foot building height.
§164-47.1F(7)(c)	Ridgeline Overlay District. Design requirements; exceed maximum 7500 square foot building footprint.
§164-47.1F(7)(d)	Ridgeline Overlay District. Design requirements; exceed maximum allowable impervious surface of 20%.

The following comment submitted by the Conservation Board, dated 9/19/07:

IBM Sterling Forest Data Center – The CB has no further comments.

The following comment submitted by the ARB, dated 9/13/07:

IBM Sterling Forest Data Center – The ARB has no comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has provided us with a full EAF which we had requested. They have also provided us with the Visual EAF Addendum as well along with photographs of the site. I have prepared a Resolution for the Planning Board to go ahead and declare Lead Agency. This is an Unlisted Action. There are other involved agencies, but the Planning Board could declare itself Lead Agency to get its own SEQR review process. The other agencies would have to make their own determination of significance.

Mr. Kowal makes a motion for Lead Agency.

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

Resolution Establishing Lead Agency  
Unlisted Action Undergoing Uncoordinated Review

Name of Action: IBM Sterling Forest Data Center Infrastructure Upgrades

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan/Special Use Permit application by IBM Corporation for a ± 67.9 acre parcel of land located at 299 Long Meadow Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 8/28/07 was submitted at the time of application, and

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

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

Whereas, after examining the EAF, the Planning Board has determined that there are other involved and/or federal agencies on this matter.

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

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

A. Planner to discuss Full EAF, Visual Addendum.

Mr. Fink: I reviewed both of the documents. I have prepared a Memo, dated 9/18/07. There are a couple of omissions on those documents. There are some clarifications and corrections that I thought that needed to be done.

Mr. Astorino: Ok.

Comment #2: Applicant to discuss project.

Mr. Astorino: I think we are up to speed on this.

Carl DiGregorio: There is nothing new. We haven't changed our plans.

Comment #3: Mounting height for luminaires on poles is 30 feet; the pole-mounted lighting does not conform to §186.43.4I of the Code. Provide a plan with photogrammetric data and details showing conformance with the Code or obtain a variance from the ZBA. If a variance is sought, provide nighttime photos and a line-of-sight analysis showing that the existing lighting does not produce glare beyond the boundaries of the applicant's parcel.

Mr. Astorino: We discussed this the last time. We can't just grant a waiver with the code.

Mr. Bollenbach: Did we receive that information yet?

Carl DiGregorio: We provided photometric data. We have the photographs. We would like to go forward with the ZBA.

Mr. Bollenbach: Ted, have you taken a look at these to see if we are in position to making a favorable recommendation to the ZBA? Do you want to review it at the work session?

Mr. Astorino: I think we could review it at the work session.

Mr. Fink: John, I would like to review it at the work session. I have not had the chance to take a look at them.

Carl DiGregorio: You could see from these photos that there is very little spill over glare. From the roadway, it is almost like there is no light on the side. What we did for effect was take photos from the roof so that you could see all lights are downward focusing. There is no up lighting or spill lights adjacent to the property.

Mr. Bollenbach: Connie, could you pen that in for the work session?

Connie Sardo: Yes.

Mr. Astorino: We will discuss that at the next work session.

Carl DiGregorio: Ok. Thank you.

Comment #4: It was previously determined that surface soils in the vicinity of the proposed Chiller Building were Group XII soils designated by the Town Code as unacceptable for building construction. A Geotechnical Report submitted by the applicant has provided the results of soil borings in the project vicinity, but did not specifically address the Town's concerns.

A. Will the Chiller Building foundation be placed on rock or on soils which were found to be different than surface soils? Do these soils have sufficient bearing capacity for the proposed building?

Brian Lanson: Yes.

Mr. Astorino: Do you have that in your Geo-tech report that you could submit to us?

Brian Lanson: Yes. We could clarify this issue. We will provide the clarifications.

Mr. Astorino: Ok.

- B. At several locations in the Geotechnical Report (Sections 4.2 and 4.7), the engineer recommends blasting. Applicant and Board to discuss.

Mr. Astorino: Are you looking to blast out there?

Brian Lanson: The Geo-Technical Engineer believes that due to the hardness of the rock and the amount of rock that needs to be removed, that would be the only viable alternative for the removal of that magnitude of the rock based on its competency. I know that we would have to go through things with this Board as far as meeting applicable codes and seismic evaluations. I am sure that IBM would want to perform pre-construction and post-construction.

Carl DiGregorio: We don't want to do any blasting if we don't have to. Most rock removal that we have been doing is with a bull point. Unless it is absolutely necessary...

Mr. Astorino: The bull hammering is your first option, but you will provide us with all the data to meet the requirements of blasting.

Zen Wojcik: They have it in their report. It is proper for the Board to discuss it as part of SEQR. The Board should now that if any windows would be broken it would be IBM's windows.

Mr. Astorino: I understand that. We will need that report.

Comment #5: Provide a design and stability calculations for retaining walls exceeding 4 feet in height. The Geotechnical Report provides design parameters but does not provide a design. In addition, Section 4.8 of the Geotechnical Report cites the results of stability analyses indicating "unacceptable factors of safety" for the slope adjacent to the proposed Generator Plant retaining wall. Applicant to discuss.

Brian Lanson: The structural engineer for the project is performing the design calculations for the retaining wall. We will submit those. The Geo-Tech report does indicate that some mitigation of the slope is required as part of the retaining wall construction. It is fairly well outlined in the report as to what the mitigations measures are that need to be followed to achieve the required slope stability and the factor of safety.

Zen Wojcik: It should be part of the calculation. You should provide that as well.

Brian Lanson: Ok.

Mr. Astorino: We will list comments 6 through 15 for the record. Do any Board members have any comments? We will discuss the lighting at the work session. Then, you will be off to the ZBA.

**ALL COMMENTS BELOW ARE UNCHANGED SINCE THE 8/15/07 MEETING.**

Comment #6: The applicant requests several waivers from the Ridgeline Overlay District design requirements. Board to discuss.

- C. Building Height – Generator building is proposed to be 30 feet in height. Chiller building is proposed to be 44 feet in height. Maximum allowable is 24 feet.
- D. Building footprint – Generator building is proposed to be 17,345 square feet. Chiller building is proposed to be 9,524 square feet. Maximum allowable is 7,500 square feet.
- E. Impervious surface – Post-development impervious lot coverage is proposed to be 22%. Maximum allowable is 20%.

Comment #7: As mitigation for exceeding Ridgeline Overlay District design requirements, the applicant proposes installation of online filtration systems on two of the stormwater discharges. Applicant to discuss.

Comment #8: At the Building Construction Guidelines (Drawing C8001), add that a schedule of the proposed work shall be provided to the Town Engineer prior to the start of construction.

Comment #9: Note on the Utility & Lighting Plan the make, model and type of luminaire mounted on “Relocated Light Poles”.

Comment #10: Note the mounting height of building mounted luminaires on the Utility & Lighting Plan. Mounting heights in excess of 35 feet will require a waiver.

**SWPPP**

Comment #11: Provide a copy of the completed NOI submitted to NYSDEC.

**BEFORE FINAL APPROVAL:**

Comment #12: Applicant to obtain building permits from the Building inspector. Provide information as required by §164-48D Performance Standards for noise and air quality considerations.

Comment #13: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes.

Comment #14: Pay performance bond and construction inspection fee for stormwater management facilities and erosion control.

Comment #15: Pay outstanding review fees.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§164-47.1F(2)	Ridgeline Overlay District. Design requirements; exceed maximum 25 foot building height.
§164-47.1F(7)(c)	Ridgeline Overlay District. Design requirements; exceed maximum 7500 square foot building footprint.
§164-47.1F(7)(d)	Ridgeline Overlay District. Design requirements; exceed maximum allowable impervious surface of 20%.

Carl DiGregorio: Could we request a public hearing at this time?

Mr. Astorino: It would be at the next available agenda. We would have to wait until the ZBA rolls through. You will need to get all these reports in.

Carl DiGregorio: Yes.

**Mr. Showalter makes a motion to set the IBM application for a public hearing at the next available agenda.**

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

Mr. Bollenbach: Have we received any color or texture samples?

Roland Vasquez: I have submitted. They were delivered to the Town already. We have addressed that.

Mr. Astorino: Thank you.

***Lewis and Yolanda Perry***

Application for sketch plat review of a proposed 2-Lot (Minor) subdivision, situated on tax parcel S 58 B 2 L 11.22; parcel located on the eastern side of Alexander Road 1500 feet north of Old Dutch Hollow Road, in the MT zone, of the Town of Warwick. Previously discussed at the 8/1/07 Planning Board meeting.

Representing the applicant: Mike Miele, Engineer. Yolanda Perry, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Board to discuss potential improvements to Riley Court.
4. Revise the note in the Bulk Table: the use group is "a".
5. Note on the plans that the limits of federal jurisdictional wetlands on this site are the bed and banks of the intermittent stream, as determined by Ecological Solutions, LLC, and that the proposed development will not disturb this wetland.
6. Dwelling unit sites in the MT zone require a 10,000 sf buildable area with <15% slope [§§164-40M and 46J(95)] within setbacks. However, at this location only ±7000 sf available within setbacks. Applicant requests waiver. Applicant and Board to discuss.
7. Each lot must be able to contain a 350 foot square. Maximum 195 foot square available. Applicant requests a waiver. Applicant and Board to discuss.
8. FOR THE RECORD - Applicant proposing filling of ±0.23 Acres < 0.25 Acres.

**BEFORE FINAL APPROVAL:**

9. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Private Road Use and Maintenance Agreement Notes.
10. Provide the declaration and the recording information on the plan for Private Road Notes, as shown in the application package.
11. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
12. Applicant to provide 9-1-1 addressing.
13. Pay performance bond and construction inspection fee for private road and erosion control.
14. Pay parkland fees.
15. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 9/19/07:

Lewis and Yolanda Perry – Waivers should be withheld only for exceptional cases. This does not appear to be an exceptional case.

The following comment submitted by the ARB, dated 9/13/07:

Lewis and Yolanda Perry – The ARB had no comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared Lead Agency on this application. We are reviewing it with the short EAF. There are comments in the review comments tonight that relates to SEQR.

Comment #2: Applicant to discuss project.

Mike Miele: This project is a proposed 2-lot residential subdivision. Lot #1 will contain an existing house. We are breaking off a new lot, lot #2 which would access Riley Court. The lot is undersized. We had to go for 3 variances. Those variances we received. We are looking to move forward.

Comment #3: Board to discuss potential improvements to Riley Court.

Zen Wojcik: Mr. Chairman, we had brought up at the last meeting that Riley Court is coming up to this proposed lot. It is unimproved. The Board usually comes up with a plan for the applicant for the type of improvements that we want to see there.

Mr. Astorino: Have you been out there?

Zen Wojcik: I was out there a while ago. I haven't been out there recently.

Mike Miele: What the applicant is looking to do if you want to take a look at it to, I guess there was another house that was just installed between where our lot and private road is. They did a driveway that came right into the house. My applicant is looking to do the same thing. They want to extend it down to this lot.

Zen Wojcik: You are talking about a 12-foot wide driveway.

Mike Miele: Yes. We want to match what is there. We want to extend it down to the unimproved paper street to where this lot is now.

Mr. Bollenbach: It would be done according to the Town's specifications.

Mr. Astorino: Yes.

Mr. Bollenbach: For a private road.

Zen Wojcik: The Board has several options. He could request to have a private road built. Riley Court is a private road. It could have been extended according to the Town's regulations for a private road. The Board could accept the applicant's proposal to put in a driveway in lieu of a private road. There are still some lots not developed between the end of Riley Court where this lot is and where the road ends right now. The Board could say construct a common driveway with the intention of any of the other lots that come in would also be part of the maintenance and the use of that common driveway. You would have that built according to the standard of the common driveway that we have in the Code. These are the three options that came to my mind right now.

Mr. Bollenbach: We will have to look into this.

Mr. Astorino: That would be something to discuss.

Mike Miele shows the plan to Mr. Astorino and discusses Riley Court regarding the type of surfaces. Mr. Astorino points out on the map the portion of Riley Court that is paved and the portion that is unimproved.

Mike Miele: We would continue with it the exact same way.

Mr. Astorino: You would continue it with blacktop.

Mike Miele: Correct.

Mr. Bollenbach: Is that 12-foot blacktop?

Mike Miele: I believe so.

Yolanda Perry: Riley Court is part of the Alexander Road Association. We maintain both Alexander Road at the loop and Riley Court that goes up. Riley Court with what Mike Miele showed you there is all gravel and stone.

Mr. Astorino: Is there no pavement there?

Yolanda Perry: There is no pavement there. There is no pavement from Alexander Road to the loop. Looking at the map, from here to here is all stone and gravel.

Mr. Astorino: Ok. There is no pavement.

Yolanda Perry: No. The loop part is the paved part. There is no pavement on Riley Court at all. It is just stone and gravel. The new house that was built here, he continued with the stone and gravel.

Mr. Astorino: What is the condition of that road?

Yolanda Perry: It is stone and gravel.

Mr. Astorino: I mean, are there pot holes? Is it passable?

Yolanda Perry: It is passable.

Mr. Astorino: We will have to go out and take a look at that. We need to see what we are talking about.

Yolanda Perry: No problem.

Mr. Astorino: The Board should go out there and take a look at it. I will go out there myself.

Comment #4: Revise the note in the Bulk Table: the use group is "a".

Mike Miele: Yes.

Comment #5: Note on the plans that the limits of federal jurisdictional wetlands on this site are the bed and banks of the intermittent stream, as determined by Ecological Solutions, LLC, and that the proposed development will not disturb this wetland.

Mike Miele: Ok.

Comment #6: Dwelling unit sites in the MT zone require a 10,000 sf buildable area with <15% slope [ §§164-40M and 46J(95)] within setbacks. However, at this location only ±7000 sf available within setbacks. Applicant requests waiver. Applicant and Board to discuss.

Mike Miele: I think that it coincides with the variance. The lots are 89,000 s.f. We received a variance down from the 217,000 s.f.

Mr. Bollenbach: Maybe, it is not buildable.

Mr. Astorino: This will lead us to comment #7.

Comment #7: Each lot must be able to contain a 350 foot square. Maximum 195 foot square available. Applicant requests a waiver. Applicant and Board to discuss.

Mr. Astorino: I guess that would go to the same.

Mr. Bollenbach: To a certain extent. The ZBA granted a lot width variance for lot #2.

Mike Miele: For 152 feet.

Mr. Bollenbach: Lot 2, 2.1 acres at 152-foot minimum lot width. That would preclude the square rule requirement.

Mr. Astorino: That would take care of the square rule.

Mr. Bollenbach: That doesn't relieve it from the buildable area.

Mr. Astorino: You would still need to show the buildable area on the lot.

Mike Miele: We show it. We just don't get the 10,000 s.f. buildable area.

Mr. Astorino: John, how do you work that? They received a variance for the lot. They didn't get the buildable area square footage.

Mr. Bollenbach: The ZBA did not grant approval for a septic either. That would have to be demonstrated. There are many requirements. It is not just the width of the lot that is required. There are other factors.

Mr. Astorino: That is going to be tricky.

Zen Wojcik: Mr. Chairman, it might be tricky but there is no resolution here.

Mr. Astorino: I understand that.

Mr. Bollenbach: That is for the applicant to address.

Mike Miele: We could request a waiver from it. We are getting 70% of what the requirement is eventhough our variance cut us down to less than half. We cannot really reconfigure the lot to get it more based on what the setbacks are and what the ZBA approved the lot for.

Mr. Bollenbach: The ZBA only approved the acreage and the lot width, not the configuration. It was 2.1 acres for lot #2 with a minimum lot width 153 feet.

Mr. Astorino: That is something the Board would have to discuss.

Mike Miele: Ok. The reason the ruling is there, they want 10,000 s.f.. I would assume based on a lot size of 5 acres or whatever 217,000 s.f....

Zen Wojcik: That 10,000 square foot is buildable area.

Mr. Bollenbach: It doesn't matter if it is a 100-acre lot.

Zen Wojcik: That defines it that a lot could be buildable. If you cannot achieve the 10,000 square foot, then it is an implication that the lot is not buildable. What you are implying is that you don't have a buildable lot.

Mr. Singer: Is this an issue for the ZBA?

Mr. Bollenbach: No. It is an issue for the Planning Board.

Mr. Astorino: That would be something the Board would have to discuss.

Mr. Bollenbach: That would be done further down the line.

Zen Wojcik: This application has been set for a public hearing. The Board decided not to have a public hearing tonight because of these issues that we are now discussing. This is now the end of the line.

Mr. Astorino: No. The setting of a public hearing doesn't mean that we have to schedule it now. It was merely set for a public hearing. If there are issues that we feel there is a need to discuss, we will discuss it without a public hearing.

Mr. McConnell: Reconfigure the lot without requesting a waiver. I don't think it follows because the ZBA granted a 70%...

Mr. Astorino: That is something we should discuss. We should look into the ZBA variance and what we have left to work with. We should take a ride out there and see what is out there. We will go from there.

Comment #8: FOR THE RECORD - Applicant proposing filling of  $\pm 0.23$  Acres < 0.25 Acres.

Mr. Astorino: Zen, does that mean they are right on the threshold?

Zen Wojcik: Previously what the applicant showed was filling in greater than  $\frac{1}{4}$  of an acre, which would have required providing additional information in getting a permit from the Building Department. He explained the last time he was here that he had a survey done. The survey was fine tuning the topography. We asked him to clarify this. He had done that. What he is showing us is that he is under  $\frac{1}{4}$  acre. He doesn't really have that large of a lot. He no longer has those restrictions that we were mentioning before that comment.

Mr. Astorino: Ok.

**BEFORE FINAL APPROVAL:**

Comment #9: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Private Road Use and Maintenance Agreement Notes.

Mike Miele: Ok.

Comment #10: Provide the declaration and the recording information on the plan for Private Road Notes, as shown in the application package.

Mike Miele: No problem.

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

Mike Miele: I have a letter from the Surveyor.

Zen Wojcik: There is a form that the Town has for you to use.

Mike Miele: Ok.

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

Mike Miele: I have the application. They have applied for it.

Comment #13: Pay performance bond and construction inspection fee for private road and erosion control.

Mike Miele: Ok.

Comment #14: Pay parkland fees.

Mike Miele: Ok.

Comment #15: Pay outstanding review fees.

Mike Miele: Ok.

Mr. Astorino: Does the Board want to go out together and take a look at the road?

Mr. Bollenbach: Take a look at the road and the sitting.

Mr. Astorino: We should do a site visit to see what is out there.

Mr. McConnell: That sounds like a good idea.

Mr. Astorino: We should see the road, the site, and the configuration. Maybe, you could stake out the house location.

Mike Miele: I think it was done. I will make sure.

Mr. Astorino: Ok. Make sure it is done. We will schedule a site visit at the work session.

Zen Wojcik: Why don't we do it at 6:00 p.m. on Monday, 9/24/07. We have a work session that night.

Mr. Astorino: That would work for me. Does that work for everybody else? We will do the site visit on Monday, 9/24/07 at 6:00 p.m. before the work session. What is the address?

Yolanda Perry: Meet at the access road off Alexander Road. We will be there to show you.

Mr. Astorino: We will meet at Alexander Road.

Mr. Bollenbach: Also, take a look at the other road.

Mike Miele: We are set for a public hearing, but it would all depend on what happens.

Mr. Astorino: You are set for a public hearing at the next available agenda. It is the Planning Board's discretion on when you would have the public hearing. We will make the decision once we feel you are ready for a public hearing.

Mike Miele: Ok. The only note that I see on the plan to change is changing it to Use Group A. Do you want me to revise a whole new set of plans just to change A.

Mr. Bollenbach: No.

Mr. Astorino: No.

Mike Miele: Thank you.

***Steve Sarbak***

Application for sketch plat review of a proposed 3-Lot (Minor) subdivision, situated on tax parcel S 17 B 1 L 74.5; parcel located on the western side of Distillery Road and West Ridge Road, in the RU zone, of the Town of Warwick. Previously discussed at the 5/16/07 Planning Board meeting.

Representing the applicant: Ken Pinkham, ERS Consultants.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Same shading is used for proposed driveway as is used for delineated wetlands. Differentiate.
4. Estimate the area of disturbance and note it on the plan.
5. FOR THE RECORD – A Soil Survey report was prepared for the development area by Burton Laux, Soil Scientist. Based on his on-site investigation, he has classified the soils as Bath, which is suitable for septic systems, with restrictions. A note has been placed on the plan. The Town Engineer recommends acceptance of the report for re-classification of the soils.
6. The Soil Scientist's report states that in the vicinity of the proposed septic field, water may perch seasonally at 30 inches below the surface. Applicant to discuss the design of the septic absorption field.
7. The Soil Scientist's investigation also determined that the gully carrying Stony Creek does not have "any" of the required characteristics of a wetland. However, within proposed Lot 3, four 48 inch diameter CMP culvert pipes are provided at the driveway crossing of the gully. The size and number of culverts appear to indicate significant, if perhaps only seasonal, flows. A single 24 inch diameter HDPE culvert is proposed under the proposed driveway. Provide calculations for sizing culvert. Applicant to discuss.
8. Corp of Engineers jurisdictional wetlands are delineated on the parcel. Town Planner to provide verification of the delineation.
9. The County Planning Department has suggested consolidating the driveways to minimize the access points on Distillery Road. A proposed driveway for Lot 1 is not shown. Applicant to discuss combining driveways.
10. Provide sight distance triangles at driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Note that area of the sight triangle to be kept free of visual obstructions.

The following comment submitted by the Conservation Board, dated 9/19/07:

Steve Sarbak - Why is Stony Creek not protected as a stream or wetland? Wetlands on site believed to be larger than shown.

The following comment submitted by the ARB, dated 9/13/07:

Steve Sarbak - Please provide the ARB with architectural designs for review prior to providing building permit.

ARB suggests that the applicant should soften the impact of the entry driveway by gently curving it along the run of the driveway. This would allow for a certain amount of screening which could soften the visual impact of the construction and entryway.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared Lead Agency on this application. Comments that relate to SEQR are in the review comments tonight.

Comment #2: Applicant to discuss project.

Ken Pinkham: This is a proposed 3-lot subdivision with one existing dwelling with an onsite septic and well. There was another lot that was previously approved from a previous subdivision. We are proposing new development on lot #2.

Comment #3: Same shading is used for proposed driveway as is used for delineated wetlands. Differentiate.

Ken Pinkham: This is typically what I use on all my drawings. I could always use a hatch shading for the wetlands.

Mr. Astorino: Zen, is that good for you?

Zen Wojcik: You will need to differentiate it.

Ken Pinkham: We will take care of that.

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

Ken Pinkham: Will do.

Comment #5: FOR THE RECORD – A Soil Survey report was prepared for the development area by Burton Laux, Soil Scientist. Based on his on-site investigation, he has classified the soils as Bath, which is suitable for septic systems, with restrictions. A note has been placed on the plan. The Town Engineer recommends acceptance of the report for re-classification of the soils.

Comment #6: The Soil Scientist's report states that in the vicinity of the proposed septic field, water may perch seasonally at 30 inches below the surface. Applicant to discuss the design of the septic absorption field.

Ken Pinkham: It is an Eljen in ground system. We are providing a curtain drain in a substantial depth with the water way. Does the Town Engineer have any comments?

Zen Wojcik: He mentioned perching. It is relatively a flat area. I don't think a curtain drain is going to do much. It is not intercepting any flow.

Ken Pinkham: We observed that most of the flow is coming in the direction from the stream. That is where we have it located to kind of wick it away. There is another option. It would be a shallow absorption trench. It would raise the depth of the trenches.

Zen Wojcik: You should think about how you will be doing this.

Ken Pinkham: Ok.

Comment #7: The Soil Scientist's investigation also determined that the gully carrying Stony Creek does not have "any" of the required characteristics of a wetland. However, within proposed Lot 3, four 48 inch diameter CMP culvert pipes are provided at the driveway crossing of the gully. The size and number of culverts appear to indicate significant, if perhaps only seasonal, flows. A single 24 inch diameter HDPE culvert is proposed under the proposed driveway. Provide calculations for sizing culvert. Applicant to discuss.

Ken Pinkham: With that comment, I would like to go to comment #9.

Comment #8: Corp of Engineers jurisdictional wetlands are delineated on the parcel. Town Planner to provide verification of the delineation.

Mr. Astorino: Ted, are you going to send Karen out there?

Mr. Fink: Yes.

Comment #9: The County Planning Department has suggested consolidating the driveways to minimize the access points on Distillery Road. A proposed driveway for Lot 1 is not shown. Applicant to discuss combining driveways.

Ken Pinkham: If it is acceptable to the Town, it seems like it is the opinion of the County, We would like to have an access easement off the existing driveway beyond the culverts. This way there wouldn't be any stream disturbance with the new development. The culvert pipe has already been replaced. There is a utility pole there that is servicing the existing structure. There is no connection between any of the utility poles in the entire frontage that just terminates. With this comment from the County, I think it is a win-win situation for construction.

Mr. Astorino: Are you going to change that to reflect that?

Ken Pinkham: Yes. What I would like to do is ask the Planning Board whether an access easement for the driveway off the existing one crossing Mr. Sarbak's property would be acceptable?

Zen Wojcik: That would be fine. But, do you understand that you would have a common driveway?

Ken Pinkham: Yes. We would have to have a maintenance agreement.

Zen Wojcik: It would have to be constructed to the common driveway standards. I don't know what the existing road is.

Ken Pinkham: It is a paved driveway. They are giving you recommendation of the gravel driveway. What we could do is extend the existing driveway.

Mr. Bollenbach: How many lots would be accessing this?

Zen Wojcik: There would be two lots accessing this.

Mr. Bollenbach: Two lots to access the existing driveway, which already has two on it.

Zen Wojcik: No. It only has one on it.

Mr. Bollenbach: It only has one on it?

Zen Wojcik: Yes.

Mr. Bollenbach: I thought there were two on it utilizing the existing driveway with the culverts.

Ken Pinkham: There are two lots accessing this. It is one common drive. It has been deeded. I believe there is a maintenance agreement in place.

Mr. McConnell: Why doesn't that show on the plan?

Ken Pinkham: It does show on the plan. The driveway is a little bit wider beyond the easement.

Zen Wojcik: Are you saying this is a common driveway? That needs to be labeled. We need to clarify how many driveways. That did not look like a driveway to me.

Mr. Bollenbach: You will also need calculation of the flow. I know that there are 3 or 4 - 48" culverts out there. I know that there has been difficulty in the past with debris plugging.

Ken Pinkham: They are trying to avoid the cost of a box culvert there.

Mr. Bollenbach: I am talking about the potential need. Is what is there adequate? It needs to be demonstrated. It is already in one of the other comments that Tectonic has.

Ken Pinkham: Right. We could demonstrate it. We could pull up the original drainage calculations.

Zen Wojcik: That would be fine.

Mr. Astorino: Will you clarify the driveways on there?

Ken Pinkham: Yes.

Mr. Astorino: You will have to show the specifications for that common driveway.

Ken Pinkham: Yes. That would have to be defined by easement. The only culvert that we would have to put in, I am not sure what the depth of the ditch is on the adjoining property.

Zen Wojcik: If you are installing a culvert, you are maintaining the flow? If you are maintaining the flow, you must know what that flow is.

Ken Pinkham: Exactly.

Zen Wojcik: If you are going to install a culvert, let us know what the flow is. This way we could see that you have looked at it and the culvert is properly sized. That is the reason for it.

Ken Pinkham: I understand.

Comment #10: Provide sight distance triangles at driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Note that area of the sight triangle to be kept free of visual obstructions.

Ken Pinkham: Yes. Could we be set for a public hearing?

Mr. Bollenbach: Zen, does it look like there are some significant issues that need to be addressed?

Zen Wojcik: When the Board sees this again, it will be a little different with a common driveway and the connections there. I think they are trying to avoid a greater impact by doing that.

Mr. Astorino: That is my point. I think it is a wise decision on the applicant's part to go that way.

Zen Wojcik: Having the Board set this for a public hearing would not be out of line.

**Mr. Showalter makes a motion to set the Steve Sarbak application for a Final public hearing at the next available agenda.**

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

Mr. Bollenbach: Regarding the CB comment, dated 9/19/07, Stony Creek, I just confirmed that last week with the Miller Farm. It is a Class C non-protected.

Mr. Astorino: Regarding the ARB comment, dated 9/13/07, you are changing it anyhow. It will work out well. It would be less effect.

Ken Pinkham: Thank you.

***Wheeler Associates c/o Alan Wolpert***

Application for final approval of a proposed 31-Lot cluster subdivision entitled, "***Wheeler Road Estates***", and located on tax parcel S 8 B 2 L 44.223; parcel located along the northerly side of Wheeler Road (County Road 41) at the intersection with Dussenbury Drive, in the RU zone, of the Town of Warwick. Preliminary Approval was granted on 11/2/05.

Representing the applicant: John Petroccione from Pietrzak & Pfau Engineering.

The following review comments submitted by Tectonic:

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

**COMMENTS FROM PRELIMINARY APPROVAL, FEIS (DATED MAY 2005)**

3. The applicant indicates that over 3000 cy of net additional fill will be required for this project. Note on the plans that the applicant's contractor shall provide certification to the Town Engineer of the source of additional fill brought into the site and certification that the fill does not contain hazardous material or construction and demolition waste to the satisfaction of the Town Engineer. If testing is required by the Town Engineer, such tests will be performed at the cost of the applicant and the results will be submitted to the Town Engineer for approval before such fill is placed.
4. County Road Entrance Plan, sheet 15 of 15 – Provide appropriate signs on the outbound boulevard roadway warning motorists of the narrowed, two-lane road ahead. Show location of stop sign. Show striping. Provide a roadway cross-section at Sta. 0+50. Plan does not show limits of vegetation clearing on Wheeler Road.

**COMMENTS ON FINAL SUBDIVISION PLAN REVIEW**

5. Applicant has revised plan to divide ownership of open space among most of the lots. The owner of Lot 14 is accorded the responsibility for the Stormwater Pollution Prevention Plan. Applicant and Board to discuss.
6. List all dedicated areas and easements, their locations in the plan set, and recording information (date, liber and page) on the Cover Sheet.
7. Show and label the limit of the Aquifer Protection Overlay on the plans. Revise Aquifer Protection Notes to the 2007 Standard Map Notes version. Since the Aquifer Protection Overlay encompasses only a small portion of the protected wetlands along Round Hill Road, over 1000 feet from the nearest proposed development, this application does not require an Aquifer Impact Assessment.
8. Place approved road names on plans. Applicant to provide 9-1-1 addressing.
9. Show the limit of disturbance on each lot and label the linetype in the Legend. Calculate the total area of disturbance and note on the plan.
10. Proposed construction of dedicated roads shall comply with revised §A168. Provide testing results and pavement design calculations for Town Engineer's review and approval.
11. Consistent with the Construction Sequence Notes, show the limits of stages on the plan. Note 1 of the Construction Sequence Notes shall be: "Attend a pre-construction meeting with the Town Engineer's representative and provide a schedule for construction. Schedule must be regularly updated as construction progresses."

12. Place the following note on the plans; "Embankment slopes shall not be constructed steeper than 2:1, as shown on this approved plan. Certification signed and sealed by a NY licensed Professional Engineer shall be provided to the Building Department that the slopes have been properly compacted and graded according to the approved plan. Topsoil shall be placed on the finished slopes, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slopes shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). The individual property owners are responsible for maintaining the continued stability of the slope."
  13. Provide notes for the construction, compaction and stabilization of embankment slopes. Provide a detail for installation of an appropriate rolled erosion control product.
  14. Provide a standard detail and profile per the design manual for the proposed detention ponds. Place this note at the detail: "Woody vegetation may not be planted or allowed to grow within 15 feet of the toe of embankment and 25 feet from the principal spillway structure."
  15. The profile view of proposed detention pond should include extreme flood, overbank flood, channel protection, and water quality elevations corresponding to the SWPPP.
  16. At stormwater management ponds, indicate a pond buffer extending out 25 feet from the maximum water surface elevation.
  17. Prepare a Landscaping Plan for the stormwater pond and buffer area consistent with the design manual.
  18. Applicant to provide signed and sealed copy of the final revised SWPPP.
  19. Provide the following note on the plans and include in the Construction Sequence Notes: "Consistent with the NYSDEC requirements for SPDES General Permit #GP-02-01 for Stormwater Discharges for Construction Activities, the applicant shall complete, sign and submit to the Town of Warwick Building Inspector copies of the "Monthly Summary of Site Inspection Activities" and "Quarterly Summary of Site Inspection Activities" reports."
  20. Place the following notes on the plans:
    - A. All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed outdoor lighting fixtures.
    - B. No building permits, except for two model homes, shall be issued for construction of residences on lots fronting on and with access from the proposed road shown on this map until all road and drainage improvements are completed. Further, no certificates of occupancy shall be issued on said lots until all road and drainage improvements are accepted by the Town Board for dedication. Until such acceptance, the model homes are not to be sold.

A declaration referencing this note has been recorded in the Orange County Clerk's Office in liber XXXX at page XXX on X/X/XXXX.
    - C. On the Erosion Control Plan: "All erosion control measures utilized on this site shall comply with the most current revision of the *NYS Standards and Specifications for Erosion & Sediment Control* (NYSDEC)."
  21. Provide details for all proposed erosion control measures.
  22. Place appropriate Driveway Notes from the 2007 Standard Map Notes on the plans.
  23. Provide elevation views of proposed buildings for Architectural Review Board review.
- BEFORE FINAL APPROVAL:**
24. Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, Stormwater Management Facilities

Maintenance Agreement, Lots 6 & 7 Common Driveway Use and Maintenance Agreement, and Open Space Conservation Notes.

25. 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.
26. Pay performance bond and construction inspection fee for Town road, stormwater management facilities, and erosion control.
27. Pay a 3-year term landscape bond and inspection fee for street trees and for hydric plantings at stormwater management facilities.
28. Pay parkland fees.
29. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 9/19/07:

Wheeler Associates / Wheeler Road Estates - This is an example of how not to preserve open space via cluster. All the open space has been sliced and diced into the lots. Enforcement will be well neigh impossible, but if the configuration remains then extra and /or high visibility markers should be required.

The following comment submitted by the ARB, dated 9/13/07:

Wheeler Associates / Wheeler Road Estates - Please provide ARB with architectural designs for review prior to obtaining building permits.  
Please provide shade tree plan for the property.

Comment #1: Board to discuss SEQR.

Mr. Fink: This application was subject to the full EAF. There were Draft and Final EIS as well as the Finding Statement that was adopted by the Planning Board prior to the issuance of preliminary approval. SEQR has been complied with at this point.

Comment #2: Applicant to discuss project.

John Petroccione: This project has been around for a long time. This is a proposed 31-lot cluster subdivision. Since our last appearance, we have received OCHD approval. The applicant's attorney is in the process of finalizing the Drainage District for the Town Board. We brought it back to you tonight for the first time in roughly 2 years to see if there are any outstanding issues.

Mr. Astorino: Ok. We will list comments 3 through 29 for the record.

John Petroccione: We would like to discuss comment #23.

### **COMMENTS FROM PRELIMINARY APPROVAL, FEIS (DATED MAY 2005)**

Comment #3: The applicant indicates that over 3000 cy of net additional fill will be required for this project. Note on the plans that the applicant's contractor shall provide certification to the Town Engineer of the source of additional fill brought into the site and certification that the fill does not contain hazardous material or construction and demolition waste to the satisfaction of the Town Engineer. If testing is required by the Town Engineer, such tests will be performed at the cost of the applicant and the results will be submitted to the Town Engineer for approval before such fill is placed.

Comment #4: County Road Entrance Plan, sheet 15 of 15 – Provide appropriate signs on the outbound boulevard roadway warning motorists of the narrowed, two-lane road ahead. Show location of stop sign. Show striping. Provide a roadway cross-section at Sta. 0+50. Plan does not show limits of vegetation clearing on Wheeler Road.

### **COMMENTS ON FINAL SUBDIVISION PLAN REVIEW**

Comment #5: Applicant has revised plan to divide ownership of open space among most of the lots. The owner of Lot 14 is accorded the responsibility for the Stormwater Pollution Prevention Plan. Applicant and Board to discuss.

Mr. Astorino: This project has been around for quite some time.

Mr. Bollenbach: Wasn't there some discussion previously on the land on the Round Hill road side...the downhill side? Was there going to be a lot line change or something proposed with the Little League or recreational field?

John Petroccione: I believe that was Round Hill that had offered that.

Zen Wojcik: Yes. That was Round Hill.

John Petroccione: Mr. Wolpert had originally proposed his open space as a large contiguous area to be offered to whoever wanted it.

Mr. Astorino: I thought Round Hill was the black dirt portion.

Mr. Bollenbach: Round Hill was an agricultural lot for the black dirt portion. This is different. I am certain that we have discussed this at one time. It is right in the proximity of the Round Hill / Golden Hill School.

John Petroccione: I thought it was the Round Hill project. I know that whichever project that it was, we did approach the Little League. We never received any positive response.

Mr. Astorino: That is not the interpretation that I got.

John Petroccione: Ok.

Mr. Bollenbach: We will have to look into that.

Mr. Astorino: I heard different. The interest is still there.

John Petroccione: We will look into that. As far as the balance of it, nobody wants this property. If we give it to the individual homeowners, the enforcement is that every neighbor is going to look at their neighbor and see the open space going away. It would be the same if the adjoiners show up to say that they don't want us to build anything or they don't want the trees cut down. You have the people living next door to enforce. If one person owns all of that, it would be their property. It would be pretty well isolated. They could go in and do what they want. We have gone with this means on other projects. It has been acceptable. I don't know if there is a strong objection to it.

Mr. McConnell: There have been other projects that have gone through this sort of thing. I know that the CB in particular has voiced concerns about this open space. This Board has heard them make that comment. This member of this Board is sensitive to that. I would like to see developers find another way of doing the open space so that it truly becomes something special rather than just big back yards.

Mr. Astorino: In any case, I would like to see their comment. If the neighbors see something, it would be very easy to send the Building Department out there and say who did what.

Mr. McConnell: That is fine. We have been requiring the stone cairns.

Mr. Astorino: I agree.

John Petroccione: No problem.

Mr. McConnell: So that you know that the notion that we have always done it this way, doesn't mean everyone has always been happy with it.

John Petroccione: Some properties are not suitable for that.

Mr. Astorino: We have seen that before.

John Petroccione: This property is not extremely usable.

Mr. McConnell: It may require engineers to start being a little more creative when they are laying things out.

John Petroccione: The developers are open to giving this land to somebody. It would be a write off for them. It would mean lower taxes for people coming in. It is not that they don't want to get rid of the property.

Mr. Bollenbach: John, is there a portion of it that is black dirt on the back side of that?

John Petroccione: I don't believe so. If there is, I don't believe that it is actively farmed.

Mr. Astorino: The stone cairns clearly delineate the open space. I don't think that is an issue.

John Petroccione: We will go with that. We will pursue the Little League further.

Mr. Astorino: I would definitely do that.

Mr. Fink: Ben, I wanted to let you know that in terms of the Finding Statement, which was the end of the SEQR process, that it was to be resolved by the Lead Agency. It was pretty clear from the document that ownership and management of the open space area will be determined by the Planning Board between preliminary and final approval. At this point, that was the way that it was left with the Findings. It was undetermined at that time.

Mr. Astorino: Apparently, no agency has come forward or no takers to take over the "open space" portion of this project. If nobody is willing to take it over, this Board will approve a configuration be to delineated and make it so that the Building Department could enforce it.

Mr. Bollenbach: There are still different options. If you want to have it as one large contiguous parcel or do you want to have a couple of lots with larger open space on it? There are many different options. We have the lot count, the septic located, and the wells located. Where do we want to put those lines? That hasn't been finalized yet. It would be something for the Board to consider. The prior Board hadn't reviewed this specific issue. It would be up to this Board to review that issue.

Mr. Astorino: We could take a look at that. I find it very tough to look at a map and say that this lot here might want a horse or the other lot might want bigger open space.

Mr. Bollenbach: You would look at the topography of the property in the context of the nature of the soils. That is what we have done in the past.

Mr. Fink: Yes. That is right.

Mr. Bollenbach: That is something we would have to look into.

Mr. Astorino: No matter how you twist it, it would still be broken up into numerous parcels.

Mr. McConnell: Not necessarily.

Mr. Bollenbach: Not necessarily.

Mr. McConnell: That is what John is saying. You don't have to break it up into numerous parcels.

Mr. Astorino: Then some lot is going to own quite a bit of property.

Mr. McConnell: And?

Mr. Astorino: What is the configuration? Would it be behind other people's homes?

Mr. Bollenbach: Has anyone from this Board been out to the property.

Mr. McConnell: I have not.

Mr. Bollenbach: You haven't even had a site visit. Maybe, you should take a look at it. You are looking at sterile maps. Go out and take a look.

Mr. Astorino: Good idea.

Mr. Singer: Weren't we out there?

Mr. Astorino: I thought we were. We did go out there. You and I had gone out there. I don't think the other Board members have been out there. Does the Board want to do another site visit? Why don't you mark it out?

Mr. Bollenbach: John, how much time do you need?

John Petroccione: We could send you something in a couple of weeks letting you know that it is done.

Mr. Astorino: Yes. Please do that.

Mr. McConnell: Why don't we plan a site visit?

Mr. Astorino: Let him get this done first.

Mr. McConnell: Let us give him something to shoot for. We have one site visit planned for this coming Monday. Why don't we plan this one for 2 weeks on a Monday?

Mr. Astorino: That will bring us to October. We are not going to have a meeting on that Monday.

Zen Wojcik: It is Columbus Day that Monday.

Mr. McConnell: All right. How about the following Monday.

Mr. Astorino: We will discuss it at the work session. Let us know when you would get it done.

John Petroccione: Ok.

Zen Wojcik: The second part of that comment, comment #5; the owner of lot 14 is accorded the responsibility for the SWPPP. This site has drainage on the roads which would be Town roads. It has a new pond which is on lot 14. I don't see how it is going to work. I am asking for the Board to discuss this.

Mr. Bollenbach: It could be on lot 14. There is a Drainage District proposed.

Zen Wojcik: John, there isn't. There is no discussion of one. There is nothing on the plan that indicates anything other than that the owner of lot 14 would take care of this whole shebang.

Mr. Bollenbach: No. John had just said that they are trying to work with the Town Board in preparing a Drainage District.

John Petroccione: Correct.

Mr. Astorino: A Drainage District is in the process of being prepared.

John Petroccione: The requirements are that we designate someone to take care of this. The Town is not willing to accept these facilities as their own. That means, we would have to give it to somebody.

Mr. McConnell: Couldn't we require a HOA?

Mr. Bollenbach: That is what a Drainage District does. They do set up an HOA. They maintain it. There is a backup Drainage District formed. In the event that it is not properly maintained, the Town reserves the right to bid it out to individual contractors under the Drainage District, and then bill the residents. It is everyone in the subdivision community that has to foot the bill. It just happens to be located on lot 14.

Mr. Astorino: There has to be an easement.

Zen Wojcik: The other part of this is that these are Town roads that are being proposed with drainage in the Town roads. We have had several other applications where this has come up. It has been a little messy at the end because who will take care of this stuff.

Mr. Astorino: It sounds like the Drainage District to me.

Zen Wojcik: We have had situations where both has happened where the Town had decided that it was a Town road so the Town would take care of it or the Drainage District should take care of it. It is proper for the Board to discuss it.

Mr. Astorino: We would have to see how the Drainage District is being drafted. We don't have a copy of it yet.

Mr. Bollenbach: I don't have a copy of it yet.

Mr. Astorino: We don't know how it is being proposed.

John Petroccione: However it is finalized with the Town Board, if it changes from being the sole responsibility of lot 14 to the responsibility to the entire district, it would be just a matter of changing one note.

Mr. Astorino: That is where we are at. Zen, is there anything else?

Zen Wojcik: That was quite a discussion.

Mr. Astorino: It is what it is. We will keep it moving forward. This project has been around for about 7 or 8 years.

John Petroccione: It has been here since 1998.

Mr. Astorino: That proceeded Zen times over. Tectonic keeps these things rolling along. Ok. You will be back. Do you have the comments?

John Petroccione: Yes.

Mr. Astorino: We will go from there.

John Petroccione: Thank you.

Comment #6: List all dedicated areas and easements, their locations in the plan set, and recording information (date, liber and page) on the Cover Sheet.

Comment #7: Show and label the limit of the Aquifer Protection Overlay on the plans. Revise Aquifer Protection Notes to the 2007 Standard Map Notes version. Since the Aquifer Protection Overlay encompasses only a small portion of the protected wetlands along Round Hill Road, over 1000 feet from the nearest proposed development, this application does not require an Aquifer Impact Assessment.

Comment #8: Place approved road names on plans. Applicant to provide 9-1-1 addressing.

Comment #9: Show the limit of disturbance on each lot and label the linetype in the Legend. Calculate the total area of disturbance and note on the plan.

Comment #10: Proposed construction of dedicated roads shall comply with revised §A168. Provide testing results and pavement design calculations for Town Engineer's review and approval.

Comment #11: Consistent with the Construction Sequence Notes, show the limits of stages on the plan. Note 1 of the Construction Sequence Notes shall be: "Attend a pre-construction meeting with the Town Engineer's representative and provide a schedule for construction. Schedule must be regularly updated as construction progresses."

Comment #12: Place the following note on the plans; "Embankment slopes shall not be constructed steeper than 2:1, as shown on this approved plan. Certification signed and sealed by a NY licensed Professional Engineer shall be provided to the Building Department that the slopes have been properly compacted and graded according to the approved plan. Topsoil shall be placed on the finished slopes, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slopes shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). The individual property owners are responsible for maintaining the continued stability of the slope."

Comment #13: Provide notes for the construction, compaction and stabilization of embankment slopes. Provide a detail for installation of an appropriate rolled erosion control product.

Comment #14: Provide a standard detail and profile per the design manual for the proposed detention ponds. Place this note at the detail: "Woody vegetation may not be planted or allowed to grow within 15 feet of the toe of embankment and 25 feet from the principal spillway structure."

Comment #15: The profile view of proposed detention pond should include extreme flood, overbank flood, channel protection, and water quality elevations corresponding to the SWPPP.

Comment #16: At stormwater management ponds, indicate a pond buffer extending out 25 feet from the maximum water surface elevation.

Comment #17: Prepare a Landscaping Plan for the stormwater pond and buffer area consistent with the design manual.

Comment #18: Applicant to provide signed and sealed copy of the final revised SWPPP.

Comment #19: Provide the following note on the plans and include in the Construction Sequence Notes: "Consistent with the NYSDEC requirements for SPDES General Permit #GP-02-01 for Stormwater Discharges for Construction Activities, the applicant shall complete, sign and submit to the Town of Warwick Building Inspector copies of the

“Monthly Summary of Site Inspection Activities” and “Quarterly Summary of Site Inspection Activities” reports.”

Comment #20: Place the following notes on the plans:

- A. All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed outdoor lighting fixtures.
- B. No building permits, except for two model homes, shall be issued for construction of residences on lots fronting on and with access from the proposed road shown on this map until all road and drainage improvements are completed. Further, no certificates of occupancy shall be issued on said lots until all road and drainage improvements are accepted by the Town Board for dedication. Until such acceptance, the model homes are not to be sold.  
A declaration referencing this note has been recorded in the Orange County Clerk’s Office in liber XXXX at page XXX on X/X/XXXX.
- C. On the Erosion Control Plan: “All erosion control measures utilized on this site shall comply with the most current revision of the *NYS Standards and Specifications for Erosion & Sediment Control* (NYSDEC).”

Comment #21: Provide details for all proposed erosion control measures.

Comment #22: Place appropriate Driveway Notes from the 2007 Standard Map Notes on the plans.

Comment #23: Provide elevation views of proposed buildings for Architectural Review Board review.

Mr. Astorino: That is not a Tectonic comment. That is an ARB comment. Is that right?

Zen Wojcik: That is part of our Code. I told you that we would be having that in there.

Mr. Bollenbach: Show a typical.

Zen Wojcik: If they are proposing to build it.

John Petroccione: Based on the market, we are not doing anything right now.

Mr. Astorino: What I see from the ARB comments, most of them are to be done before a building permit.

John Petroccione: We have no problem.

Mr. Astorino: We have these comments for the record. Basically, you are moving forward on this.

Zen Wojcik: Mr. Chairman, there are two things. These comments are shop keeping comments. Comment #5, the Board might want to discuss. It goes along with the CB comment that is similar to this.

**BEFORE FINAL APPROVAL:**

Comment #24: Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, Stormwater

Management Facilities Maintenance Agreement, Lots 6 & 7 Common Driveway Use and Maintenance Agreement, and Open Space Conservation Notes.

Comment #25: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space.

Comment #26: Pay performance bond and construction inspection fee for Town road, stormwater management facilities, and erosion control.

Comment #27: Pay a 3-year term landscape bond and inspection fee for street trees and for hydric plantings at stormwater management facilities.

Comment #28: Pay parkland fees.

Comment #29: Pay outstanding review fees.

***Vaughan and Anne Wiles #2 Subdivision***

Application for sketch plat review of a proposed 4-Lot (Minor) 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. Previously discussed at the 6/6/07 Planning Board meeting.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. The minimum dimension in a buildable area (§137-21A) is 40 feet. The buildable areas within Lots 2 and 3 do not appear to comply. Show that the minimum dimension is 40 feet or greater, or redraw.
4. Lot 1 does not comply with the square rule. Applicant to discuss.
5. Small structures are shown off the southerly side of Lot 2 driveway at ±Sta. 2+00. Identify.
6. The applicant's engineer has interpreted the mapped soil type in the vicinity of the proposed SDS for Lots 2 & 3 as MdB (General Note #10), showing the slope of the land as less than or equal to 15%. The basis for this interpretation is a topographic survey done by photogrammetry. Because of the generally wooded nature of the portion of the parcel proposed for development, field verify the slope of the land at the proposed SDS sites.
7. Columbia Gas Pipeline has an easement through the parcel. Show and label on plan.
  - A. Applicant proposes constructing a paved private road, underground utilities, and drainage facilities in the pipeline easement. Provide copies of correspondence with Columbia Gas Pipeline permitting the proposed construction within their easement.
8. A stormwater management system, consisting of a swale and a closed system, is shown along the common driveway.
  - a. Provide calculations for the Town Engineer's review.
  - b. Provide details on the plans. Include details for temporary erosion control measures at inlets and, if required, at the swale and outlet.
  - c. Show flared-end sections (F.E.S.) or headwalls at the ends of all culverts.
9. Provide construction notes for cut and fill slopes at the common driveway and individual lot driveways. Include requirements for compaction and stabilization. Provide a detail for installation of erosion control measures on slopes (including temporary measures, if necessary, per the *NYS Standards*).
10. The Common Drive Profile shows a maximum grade of 14%. The Code allows a maximum 12% grade (§164-41.2K(5)). Applicant to discuss.
11. Show the proposed drainage on the Common Drive Profile.
12. The Common Drive Section view proposes a tar & chip road surface. The Code requires an asphalt paved roadway. Applicant to discuss.
13. Revise the Typical Driveway Pavement Section to conform with §A168-19.
14. Place all the Driveway Notes, except Note #5, from the 2007 Standard Map Notes on the plans. Note #3 should reference Lot 1. Notes #4 and #6 should reference Lots 2 & 3.
15. Show a Fire Department driveway marker at Sta. 2+00 of the Lot 3 driveway, and Sta. 1+20 of the Lot 2 driveway.
16. A leader at the Lot 1 septic field is without a label.

17. On the Detail sheet, clarify that the Swale Detail is for the curtain drain swale. Show topsoil and seeding of the swale.
18. Provide elevation views of proposed buildings for Architectural Review Board review.
19. Place the following notes on the plans;
  - A. Embankment slopes shall not be constructed steeper than 2:1, as shown on this approved plan. Certification signed and sealed by a NY licensed Professional Engineer shall be provided to the Building Department that the slopes have been properly compacted and graded according to the approved plan. Topsoil shall be placed on the finished slopes, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slopes shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). The individual property owners are responsible for maintaining the continued stability of the slopes.
  - B. All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures.
  - C. No building permits shall be issued until the common driveway and drainage infrastructure is constructed, in accordance with the approved plans and specifications, and certified as complete by the Town Engineer.
20. Provide sight distance triangles at common driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Include a note that the area of the triangles shall be kept free from visual obstructions.

**BEFORE FINAL APPROVAL:**

21. 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.
22. Parcel is underlain by Franklin Marble. Provide Franklin Marble Construction Note and the declaration and recording information for Radon Reduction Notes.
23. 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.
24. Pay performance bond and construction inspection fee for common driveway, stormwater management facilities, and erosion control.
25. Pay parkland fees.
26. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 9/19/07:

Vaughn and Anne Wiles Sub. #2 - The site appears to be located in a Franklin Marble area which implies the presence of tremolite. Care must be undertaken during construction to ensure that potential hazardous dust is not inhaled by workers or neighbors.

The following comment submitted by the ARB, dated 9/13/07:

Vaughn and Anne Wiles Sub. #2 - Please provide architectural drawings for proposed homes for review prior to obtaining building permits. Please consult with ARB concerning the proposed driveway and its design.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. We are continuing to gather information regarding SEQR.

Comment #2: Applicant to discuss project.

Karen Emmerich: We are proposing a 4-Lot Conservation Density subdivision. The common driveway would come off County Route 1. There is an existing farm operation which is shown on lot 4. The goal is to put as much land with that horse farm as we can and subdivide the 3 additional lots.

Comment #3: The minimum dimension in a buildable area (§137-21A) is 40 feet. The buildable areas within Lots 2 and 3 do not appear to comply. Show that the minimum dimension is 40 feet or greater, or redraw.

Karen Emmerich: We could do that.

Comment #4: Lot 1 does not comply with the square rule. Applicant to discuss.

Karen Emmerich: True. I discussed this with Ted as far as the conservation density whether the square rule requirement is something that could be waived in order to consolidate the lots so that we could preserve as much of farm land as possible.

Zen Wojcik: Are you requesting a waiver?

Karen Emmerich: Yes, if that is required.

Mr. Fink: We had discussed it. The conservation density regulations were prepared in such a way that that they were a reflection of the cluster subdivision regulations. There were other benefits that would accrue to a conservation density subdivision. When they were developed it was to treat them in much of the same way that the cluster regulations were treated where in the bulk regulations and other dimensional standards would have the ability to be waived by the Planning Board in favor of a plan that was more respectful of the natural resources that are on the property.

Zen Wojcik: So, it doesn't need a waiver of the square rule?

Mr. Astorino: That is something we could review later on.

Mr. Fink: One of the problems that developed with the Zoning Regulations was that when they were enacted there was the thought at that time, which was a few years ago, was that subdivision regulations would be amended so that they would be complimentary to the Zoning. As everyone on this Board is aware, the subdivision regulations have not been amended. There are some issues where there are conflicts between the two. That was recognized by the Town Board when the Zoning Regulations were enacted. There is a section within the Zoning that says in the event of a conflict between the Zoning and any other regulations, the Zoning would take precedence.

Mr. Bollenbach: Is the square rule applicable? Does it need a waiver? I should take a look at that.

Mr. Fink: You should take a look at it.

Mr. Bollenbach: I will take a look at that. It is just a technicality. We would either grant a waiver or it is simply not applicable. I don't know which one.

Mr. Fink: I am not sure either.

Mr. Bollenbach: The square rule in this particular case has a different standard than the square rule in other cases.

Karen Emmerich: It is not quite clear in the Conservation Density specifications.

Mr. Astorino: We will discuss it.

Comment #5: Small structures are shown off the southerly side of Lot 2 driveway at  $\pm$ Sta. 2+00. Identify.

Zen Wojcik: I have no idea where they are.

Karen Emmerich: I could not find them. We will have to check that out.

Comment #6: The applicant's engineer has interpreted the mapped soil type in the vicinity of the proposed SDS for Lots 2 & 3 as MdB (General Note #10), showing the slope of the land as less than or equal to 15%. The basis for this interpretation is a topographic survey done by photogrammetry. Because of the generally wooded nature of the portion of the parcel proposed for development, field verify the slope of the land at the proposed SDS sites.

Karen Emmerich: Will do.

Comment #7: Columbia Gas Pipeline has an easement through the parcel. Show and label on plan.

Karen Emmerich: Yes.

A. Applicant proposes constructing a paved private road, underground utilities, and drainage facilities in the pipeline easement. Provide copies of correspondence with Columbia Gas Pipeline permitting the proposed construction within their easement.

Karen Emmerich: Ok.

Comment #8: A stormwater management system, consisting of a swale and a closed system, is shown along the common driveway.

A. Provide calculations for the Town Engineer's review.

B. Provide details on the plans. Include details for temporary erosion control measures at inlets and, if required, at the swale and outlet.

C. Show flared-end sections (F.E.S.) or headwalls at the ends of all culverts.

Karen Emmerich: Ok.

Comment #9: Provide construction notes for cut and fill slopes at the common driveway and individual lot driveways. Include requirements for compaction and stabilization. Provide a detail for installation of erosion control measures on slopes (including temporary measures, if necessary, per the *NYS Standards*).

Karen Emmerich: Will do.

Comment #10: The Common Drive Profile shows a maximum grade of 14%. The Code allows a maximum 12% grade (§164-41.2K(5)). Applicant to discuss.

Karen Emmerich: Right. We will request a waiver. We rather do less cutting.

Comment #11: Show the proposed drainage on the Common Drive Profile.

Karen Emmerich: Will do.

Comment #12: The Common Drive Section view proposes a tar & chip road surface. The Code requires an asphalt paved roadway. Applicant to discuss.

Karen Emmerich: Ok. The applicant agrees to an asphalt roadway.

Comment #13: Revise the Typical Driveway Pavement Section to conform with §A168-19.

Karen Emmerich: Will do.

Comment #14: Place all the Driveway Notes, except Note #5, from the 2007 Standard Map Notes on the plans. Note #3 should reference Lot 1. Notes #4 and #6 should reference Lots 2 & 3.

Karen Emmerich: Ok.

Comment #15: Show a Fire Department driveway marker at Sta. 2+00 of the Lot 3 driveway, and Sta. 1+20 of the Lot 2 driveway.

Karen Emmerich: Ok.

Comment #16: A leader at the Lot 1 septic field is without a label.

Karen Emmerich: We will correct that.

Comment #17: On the Detail sheet, clarify that the Swale Detail is for the curtain drain swale. Show topsoil and seeding of the swale.

Karen Emmerich: Will do.

Comment #18: Provide elevation views of proposed buildings for Architectural Review Board review.

Mr. Astorino: This goes back to the ARB's comment.

Karen Emmerich: Is this going to be a standard requirement now?

Mr. Astorino: No. It would come from the ARB. Regarding their comment pertaining to the driveway design, dated 9/13/07, they will see it on your maps. If there are any comments, I am sure that they would provide it. That is an ARB comment.

Comment #19: Place the following notes on the plans;

- A. Embankment slopes shall not be constructed steeper than 2:1, as shown on this approved plan. Certification signed and sealed by a NY licensed Professional Engineer shall be provided to the Building Department that the slopes have been properly compacted and graded according to the approved plan. Topsoil shall be placed on the finished slopes, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slopes shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). The individual property owners are responsible for maintaining the continued stability of the slopes.
- B. All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures.
- C. No building permits shall be issued until the common driveway and drainage infrastructure is constructed, in accordance with the approved plans and specifications, and certified as complete by the Town Engineer.

Karen Emmerich: We agree to all (3) notes.

Comment #20: Provide sight distance triangles at common driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Include a note that the area of the triangles shall be kept free from visual obstructions.

Karen Emmerich: Right. We have to get County approval for that entrance. We have to design it for that.

**BEFORE FINAL APPROVAL:**

Comment #21: 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: We understand all of the requirements before final approval.

Mr. Astorino: We will list comments 22 through 26 for the record.

Comment #22: Parcel is underlain by Franklin Marble. Provide Franklin Marble Construction Note and the declaration and recording information for Radon Reduction Notes.  
Comment #23: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space.

Comment #24: Pay performance bond and construction inspection fee for common driveway, stormwater management facilities, and erosion control.

Comment #25: Pay parkland fees.

Comment #26: Pay outstanding review fees.

Karen Emmerich: What we wanted tonight was to get a feel from the Board for the layout of the lots. If you would like to go out for a site visit, we would be more than willing to meet you out there and show you the reason the way it is laid out.

Mr. Astorino: What is the Board's feeling? It is up to the Board if you want to go out and take a look at it.

Karen Emmerich: If you want to go out on your own, it would be entirely up to you. The farm operation is self explanatory. Those lots that enter off the County Road is an existing farm road. You could pull right in there and walk through.

Mr. Astorino: What is the Board's feeling?

Mr. Showalter: I am familiar with it.

Mr. Astorino: I know what it is.

Mr. McConnell: I think you could see it from the road.

Mr. Astorino: There is no need for us to go out there.

Karen Emmerich: So, we could proceed.

Mr. Bollenbach: Ted, was there a letter from O.C. Planning on this application?

Mr. Fink: Yes. The County had a number of comments on this.

Mr. Bollenbach: Were any of the comments significant?

Mr. Fink: It says that it appears to meet the guidelines for a cluster subdivision. But, this project is a conservation density subdivision. They do raise some concerns about the slopes in the area of the proposed driveway on lot 3 and the proposed common driveway on lot 1 whereas the slopes are in excess of 20%. It states that the applicant should take additional precautions when grading to prevent excessive soil erosion, particularly as the project is located within the Aquifer Protection District. Due to the Aquifer Protection District and the proximity of the proposed and existing development to the DEC wetlands onsite, we recommend that the applicant also consider redesigning the common driveway to take access from the less-steep northwestern portion of proposed lot 1.

Karen Emmerich: Except that area that they are talking about is not less-steep. The area where we are coming in is already an existing cut. It is much less-steep than further west along County Route 1. Take a look at the topography.

Zen Wojcik: Does the farm road go along the slope?

Karen Emmerich: It runs right along the contours.

Zen Wojcik: How wide is the farm road?

Karen Emmerich: It is kind of a grassy area.

Zen Wojcik: Is it 10 feet wide?

Karen Emmerich: It is about 10 to 12 feet wide.

Zen Wojcik: The common driveway would be 16 feet wide.

Karen Emmerich: Yes.

Zen Wojcik: The point that I am trying to make here is that there is a 10-foot wide road on a steep slope. It is a farm road. It is a grassy road. You would have a 16-foot wide common driveway that is paved on the same steep slope. You know where I am going to go with this. I will stop right now.

Mr. Astorino: Good idea. The problem here is that you are asking for a waiver for 14% grading on this road. Is that correct?

Karen Emmerich: Yes. It would be on portions of the road.

Mr. Astorino: It would be on portions of the road. Is your point that you would have significant water runoff from this or erosion?

Zen Wojcik: They will have to build this road with an embankment. We have a very lengthy note that you went through. That is to make sure that the embankment is built correctly. There is always the chance that somebody might not build it correctly. The County Planning has made a point here by stating that it is an extremely steep slope. The Code makes reference to the same sort of a thing. The Planning Board has taken it upon itself on a case by case basis to consider the disturbance of slopes like this.

Mr. Astorino: Exactly. We don't have to grant a waiver on this and make them do a 12% or whatever it shall be to comply with the code.

Zen Wojcik: Or, you could say that it is not an appropriate place to put a road.

Mr. Astorino: I understand that. According to the applicant, unless they want to provide us with going the other way, and prove to us that it is just as bad if not worse as far as slope wise.

Karen Emmerich: Are you talking about the County entrance or the existing farm road?

Mr. Astorino: The existing farm road.

Zen Wojcik: I am trying to get a sense because you said that there was a farm road. I did not realize that. If the Board goes out there individually, they would have a sense of where the proposed common driveway would be.

Karen Emmerich: For part of it. It goes into a wooded area.

Zen Wojcik: They would get the sense of what the steepness of the slope would be.

Mr. Astorino: Are your concerns about having severe erosion?

Zen Wojcik: Yes.

Mr. Astorino: If it is not done correctly.

Zen Wojcik: Even if it is done correctly, there is always a chance.

Mr. Astorino: If we brought this road to 12%, you would feel more comfortable.

Zen Wojcik: It is going across a steep slope.

Mr. Astorino: I understand that.

Zen Wojcik: It is not necessarily the grading of the road here. They are going across a steep slope. The water will always come down that slope. Mr. Chairman, you were right. The Board might want to take a look at it.

Mr. McConnell: I am interested in carrying your comment that the County is wrong. What they are proposing is actually steeper than what you are proposing?

Karen Emmerich: The entrance area which is just west of where we come in, it has been graded and it is relatively flat. You could pull right off the County Road into the property. It was more accessible than further up the hill.

Zen Wojcik: I don't quite get what the County was stating.

Mr. Astorino: The County, it didn't sound like to me that they are placing another road on this plan.

Karen Emmerich: No. They are just talking about a different cut.

Mr. Astorino: That was my interpretation.

Karen Emmerich: That was mine to.

Mr. Bollenbach: It is for the Board to consider.

Mr. Astorino: Exactly. We take a look and make our own decision.

Zen Wojcik: That was the point that I was making for the Board to consider.

Mr. Astorino: We will consider that. We have some issues to look at. If the Board wants to go out to the site on their own, that would be fine. If you want to go out to the site together, that would be fine to.

Mr. Fink: Karen, do we have the sign off letter from the DEC on the wetlands?

Karen Emmerich: No. It is in the works. We don't have it yet.

Mr. Fink: Ok.

Mr. Astorino: Does the Board have any other comments?

Karen Emmerich: As far as a site visit is concerned, are we going out there or not?

Mr. Astorino: Does the Board feel like going out there?

Mr. McConnell: Yes, now I do.

Mr. Singer: I think we have to.

Mr. Astorino: Ok. We will schedule a site visit for Wednesday, 10/3/07 at 6:00 p.m.. We will meet at the farm down below Amity Road.

***Carl Singer Lot Line Change***

Application for sketch plat review of a proposed lot line change, situated on tax parcels S 65 B 1 L 16.1 and L 18.2; parcels located on the eastern side of Cascade Road 250 feet south of the intersection of Buttermilk Falls Road, in the CO zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Kirk Rother, Engineer.

**Mr. Carl Singer recuses himself from this application.**

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Provide the deed and the recording information on the map for the lot line change.
4. A proposed septic area is shown on expanded Lot 16.1. If a building lot is proposed, locate the proposed dwelling and provide percs & deeps witnessed by the Town Engineer, a septic design and details. If no construction is proposed, label the lot "NOT FOR RESIDENTIAL USE WITHOUT PLANNING BOARD APPROVAL".
5. The existing driveway exceeds 1000 feet. The Building Inspector has noted that it is unknown if the driveway meets the Town's Code requirements regarding posting. Applicant to discuss.
6. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes.
7. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 9/19/07:

Carl Singer Lot Line Change – After an exhaustive discussion on the merits of this application, the CB finally agreed to have no comment.

The following comment submitted by the ARB, dated 9/13/07:

Carl Singer Lot Line Change – The ARB had no comment.

Comment #1: Board to discuss SEQR.

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

Mr. McConnell makes a motion for Lead Agency.

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

617.6

**State Environmental Quality Review (SEQR)**  
Resolution Establishing Lead Agency

Name of Action: Carl Singer Re-subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Carl Singer and Diane Singer for a  $\pm$  42 acre parcel of land located at 117 Cascade Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 8/28/07 was submitted at the time of application, and

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

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

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

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

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

Comment #2: Applicant to discuss project.

Kirk Rother: The application before the Board is for Mr. Singer. He has (2) existing parcels of land totaling 42.8 acres. One parcel is currently approximately 2.3 acres in size has the existing driveway shaped like a flag lot. We would like to increase the size of that lot to give it another approximately 2.3 acres resulting in a total area of approximately 4.3 acres; it would make the lot more buildable. It is a current non-conforming lot. The proposed lot line change increases the conformity and the buildable area. It increases the buildable area. Going right into comment #4, there are no plans to build on this lot at this time. At the end of this process, we would like to have this to be a buildable lot. I am unclear procedurally on how that works. Zen and I spoke about it briefly. I know that if I had an existing lot without a lot line change, we could apply for a septic permit with the Building Department and accomplish what we need to accomplish. In your comment, it says that we would either have to do all of the engineering on this lot or label it as "not for residential use without Planning

Board approval". I would take that to mean that we would have to come back for a separate Planning Board approval. It isn't quite clear. Having said that, we have no problems with doing the engineering on it. The only concern would be the sitting of the house. That would be because of being in the Ridgeline Overlay we would be locked into  $\pm 20$  of the house location.

Mr. Bollenbach: You could have alternate locations. Are you going to use the common drive?

Kirk Rother: Yes.

Zen Wojcik: I think the Board should take a note of the setbacks that are shown on the plan. There are not many options as to where a house could go. It is a small buildable area here.

Kirk Rother: After I submitted this, Carl had asked me. You will see that I show the 100-foot front yard setback. I show it what truly would be the front, but I also show it wrapping around here. Carl had asked me if that could be a side yard setback. I suspect that it could be some planning on changing that if the Board has no objection to it. I point that out because that would free up a little more space, but not much.

Mr. Astorino: Basically, you are looking at 1 or 2 locations.

Kirk Rother: Yes.

Mr. Astorino: Put that as one as an alternate.

Comment #3: Provide the deed and the recording information on the map for the lot line change.

Kirk Rother: Will do.

Comment #4: A proposed septic area is shown on expanded Lot 16.1. If a building lot is proposed, locate the proposed dwelling and provide percs & deeps witnessed by the Town Engineer, a septic design and details. If no construction is proposed, label the lot "NOT FOR RESIDENTIAL USE WITHOUT PLANNING BOARD APPROVAL".

Kirk Rother: We will show the house and do the engineering. I have already done the soil tests. We will have Tectonic come out and witness them.

Comment #5: The existing driveway exceeds 1000 feet. The Building Inspector has noted that it is unknown if the driveway meets the Town's Code requirements regarding posting. Applicant to discuss.

Kirk Rother: I believe that Mr. Singer will be posting a couple of signs.

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

Kirk Rother: Ok.

Mr. Bollenbach: And, the common drive use and maintenance.

Kirk Rother: Not a problem.

Comment #7: Pay outstanding review fees.

Kirk Rother: Does this require a public hearing?

Mr. Astorino: I believe so.

Mr. Bollenbach: Yes. There is proposed construction.

Kirk Rother: Would the Board consider setting it for a public hearing?

**Mr. Kowal makes a motion to set the Carl Singer application for a Final public hearing at the next available agenda.**

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

Mr. Bollenbach: Kirk, there is also a little piece that is on Cascade Road, do you want to do a dedication strip? Zen, add dedication strip for Cascade Road.

Zen Wojcik: Yes.

Mr. Astorino: You are good to go.

Kirk Rother: Thank you.

**Other Considerations:****Mr. Carl Singer returns to the Planning Board.**

1. Planning Board Minutes of 7/18/07 for Planning Board approval. (On 8/16/07 – I emailed 7/18-minutes to Pl. Bd.). Planning Board Minutes of 8/1/07 for Planning Board approval. (On 9/4/07 – I emailed 8/1-minutes to Pl Bd.). Planning Board Minutes of 8/15/07 for Planning Board approval. (On 9/13/07 – I emailed 8/15-minutes to Pl. Bd.).

Mr. McConnell makes a motion to Approve the 7/18/07 and 8/15/07 Planning Board minutes.

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

Mr. Kowal makes a motion to Approve the 8/1/07 Planning Board minutes.

Seconded by Mr. Showalter. Motion carried; 4-Ayes and 1-Abstained (Mr. McConnell).

2. Letter from Kirk Rother, P.E., dated 8/23/07 addressed to the Planning Board in regards to the Lands of Robert Greene Subdivision – requesting a 90-Day Extension on final approval of a proposed 2-Lot Subdivision (SBL # 78-3-42.1). Final Approval was granted on 3/21/07. 1<sup>st</sup> 90-Day Extension becomes effective on 9/21/07.

Mr. McConnell makes a motion on the Robert Greene subdivision, granting a 90-Day Extension on final approval of a proposed 2-Lot subdivision, granted on 3/21/07. The 1<sup>st</sup> 90-Day Extension becomes effective on 9/21/07.

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

3. Letter from Lehman & Getz Engineering, dated 8/28/07 addressed to the Planning Board in regards to the Norden Subdivision – requesting a 6-Month Extension on final approval of a proposed 4-Lot Cluster Subdivision (SBL # 40-1-25.21 & L 25.224). Final approval was granted on 3/21/07. The 6-Month Extension becomes effective on 9/21/07.

Mr. McConnell: Is there any indication why there isn't?

Mr. Kowal: What is the reason?

Mr. Bollenbach: With Norden, there is a cloud on the title. They cannot perfect the dedication strip on Ryerson Road. They need extra time.

Mr. Kowal makes a motion on the Norden Subdivision granting a 6-Month Extension on final approval of a proposed 4-Lot cluster subdivision, granted on 3/21/07. The 6-Month Extension becomes effective on 9/21/07.

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

4. Letter from Pietrzak & Pfau Engineering, dated 9/12/07 addressed to the Planning Board in regards to the Wheeler Road Estates Subdivision – requesting a 3<sup>rd</sup> 6-Month Extension on preliminary approval of a proposed 31-Lot subdivision (SBL # 44-2-44.223). Preliminary approval was granted on 11/2/05. The 3<sup>rd</sup> 6-Month Extension becomes effective on 5/2/07.

Mr. McConnell: John, do you know why?

Mr. Bollenbach: Wheeler Road Estates, is that Round Hill?

Mr. Astorino: No. That is the one that we just had.

Connie Sardo: It is Wheeler Road Estates. They did not indicate in their letter a reason why.

Mr. Bollenbach: Ok.

Mr. McConnell: John, what is the effect if we say no?

Mr. Bollenbach: It is preliminary approval. Preliminary approvals really don't lapse unless they are actually revoked. The reason for this is that they are still working on completing all of the outstanding items that were under preliminary. They are back before the Board for final. They are working on it.

Mr. McConnell: If preliminary doesn't expire and it needs to be revoked, what is the need to request an extension?

Mr. Bollenbach: It is a formality. It is a way to keep things up to speed to show that there is due diligence on the application.

Mr. McConnell: Ok.

Mr. McConnell makes a motion on the Wheeler Road Estates application, granting a 3<sup>rd</sup> 6-Month Extension on preliminary approval of a proposed 31-Lot subdivision, granted on 11/2/05. The 3<sup>rd</sup> 6-Month Extension becomes effective on 5/2/07.

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

5. Memo from Town Board, dated 9/12/07 addressed to the Planning Board – in regards to Masker Fruit Farm AP-O Request.

Mr. Bollenbach: The Town Board is looking for a recommendation from the Planning Board stating yes, the property should be in the AP-O. I have requested several times for a complete AP-O application. On page 2 of that, they don't even have the right owner. A portion of the property is owned by Vurno and Ludmerer and another portion is owned by Masker Orchard, Inc. There is no information on the application relating to that. I also requested a letter explaining why they were requesting participation into the AP-O. That is not forthcoming either.

Mr. Astorino: We will push it off.

**Correspondences**

1. Letter from OCHD, dated 8/14/07, addressed to Lehman & Getz Engineering – in regards to the Gables Subdivision.

Mr. Astorino: That is in our packet.

2. Highlands Landowner Assistance Program – Forest Stewardship Planning – Received from Phyllis Briller at the 8/15/07 Planning Board meeting regarding the BCM application. This is for Planning Board's informational purposes.

Mr. McConnell: Did we forward a copy of that to BCM?

Connie Sardo: Yes.

Mr. McConnell: Ok.

3. Letter from Ralph Somma, dated 9/6/07 addressed to Planning Board & ZBA – in regards to the Myrna Carlisle PB & ZBA applications (SBL # 63-1-8.21 & 8.22).

Mr. Lipman: Yes. I represent Mr. and Mrs. Carlisle. That letter was sent to me by Connie. The day that it arrived was the day that the ZBA was to convene to consider at relief of a variance. I spoke to Mr. Somma. His number was in the letter. I faxed him a copy of the plan and tax map. He had a mistaken question that his property was very much closer to the subject property than it was. He said to me that if he was satisfied with what I sent him, he wouldn't bother coming to the meeting. He did not come to the meeting. When I spoke to him, he understood that his property was too far to be any significance to him. Just to bring you up to date, I faxed a letter to you today.

Connie Sardo: Yes.

Mr. Lipman: The letter was in regards to the ZBA meeting adjournment to 1/28/08.

Mr. Astorino: 28<sup>th</sup> of January?

Mr. Lipman: Yes. We are working out some arrangements with the neighbors. I think it would take that long to accomplish it. Perhaps, we might not need a variance. If that is the case, we will come back to the Planning Board.

Mr. Astorino: Ok. Thank you for the update.

Mr. Lipman: Thank you.

4. Letter from Gary S. Goldstein, Attorney, dated 9/14/07 addressed to the Planning Board in regards to Brian Singer (2)-Lot Subdivision.

Mr. Astorino: That is in our packet.

5. State University of NY College of Environmental Science & Forestry – Courses on Stormwater Management Program for Fall 2007 / Spring 2008.

Mr. Astorino: That is in our packet.

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

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

**Mr. McConnell makes a motion to adjourn the September 19, 2007 Planning Board meeting.**

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