

TOWN OF WARWICK PLANNING BOARD

October 1, 2008

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, October 1, 2008 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF R Land, LLC c/o Robert Schreibeis, Jr.

Application for Site Plan Approval and Special Use Permit for the construction and use of a proposed 5,000 square foot Mixed Use/Retail Space, entitled, "**Webster Plaza**", situated on tax parcel S 13 B 2 L 2 ; project located on the western side of Pulaski Highway, in the LB zone, of the Town of Warwick, County of Orange, State of New York.

Representing the Applicant: Kirk Rother, Engineer. Rob Schreibeis, Applicant.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Replace references to the "Accessory Apartment" with "Residence".
4. Special Condition 122 restricts parking from the front yard in this zoning district. Applicant shows parking within the front yard and requests a waiver. Board to discuss.
5. Show compliance with Special Condition 123 (one side yard should be a rear yard).
6. Per the Site Plan Checklist, on the architectural drawings, indicate the type and color of materials proposed for use. On the exterior elevations include the building height as defined by the Town Code.
7. An eating and drinking establishment has been eliminated from consideration as a potential use at the building due to inadequate wellhead protection. Note in the General Notes that an eating and drinking establishment is a prohibited use in this building unless permitted by the Orange County Department of Health (OCHD).
8. Seal all existing wells on the site in a manner consistent with the requirements of the OCHD. Note the location(s) on the plan.
9. The August 20, 2008, response letter from OCHD regarding the well location notes that "no further individual well water supplies be developed in this area unless all separation guidelines can be achieved." The letter also notes that area wells are "susceptible to high

- nitrate levels”. On the plans, show an acceptable treatment method for managing nitrates in well water to be installed at the building, and obtain the approval of OCHD.
10. The conceptual drainage plan for the site shows that about half of the parking lot drains along the pavement towards the entrance. During winter months, runoff collecting at the low point (Sta. 0+25) may freeze, causing a hazard to in-turning traffic. Applicant to provide stormwater management measures to eliminate this hazard.
 11. Applicant to explain, since no eating and drinking establishment is being considered for the site, why a grease trap is shown on the site plan.
 12. A proposed freestanding sign, conforming to the Code, is shown on the plans. Since it is possible that there will be more than one commercial occupant of the building, provide a detail for wall-mounted or window signs conforming to §164-43.1G.(1).d
 13. Provide sight distance triangles at driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Dimension sight triangles. Indicate that actual sight distance equals or exceeds minimum sight distance.

BEFORE FINAL APPROVAL:

14. Provide the declaration and the recording information on the plan for Aquifer Protection Overlay Notes.
15. Applicant to provide 9-1-1 address.
16. Pay a 3-year term landscape bond and inspection fee for screening plantings.
17. Pay outstanding review fees.

WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§164-46J.(122)	Parking restricted from front yard in the LB zone. Waiver requested to permit parking.

The following comment submitted by the Conservation Board:

Webster Plaza – None submitted.

The following comment submitted by the ARB, dated 10/1/08:

Webster Plaza – We have made previous comments on the Schreibeis/Webster Plaza application and make no further comment.

Comment #1: Board to discuss SEQR.

Mr. McConnell: The following SEQR comment has been prepared by Mr. Ted Fink, dated 10/1/08: “The Planning Board has been reviewing this Unlisted Action using a Short Environmental Assessment Form. SEQR issues associated with this application include the potential for impacts on water, as a result of the Orange County Health Department’s letter alerting the Town that high nitrate levels may be present in groundwater wells in this area. The applicant has eliminated a food service use in the proposed 5,000 square foot building as a result of this issue. The only other issue concerns consistency with the Town’s Design Guidelines. The issue of parking at the front of the building has been addressed through the applicant’s preparation of an Alternative Site Plan that showed how the triangular configuration of the lot made it difficult to orient parking in the manner encouraged by the

I anticipate that the Town Architectural Review Board will provide comments to the Planning Board. Elevations of the proposed building have been submitted to the Planning Board by the applicant, who has attempted to present a style that is in keeping with the rural structures found in this area of the Town. The Guidelines call for new buildings in the hamlets to be *either traditional in their architectural character, or be a contemporary expression of traditional styles and forms...* The applicant has prepared a landscape plan for the site. This plan is in need of revision since some of the plant types shown are considered invasive exotics. The landscaping also needs to address bonding to ensure three year survivability. I would recommend that the proposed Site Plan's landscaping plan be revised to the Town Planner's specifications. Lighting appears to comply with Town requirements but should be subject to final review by the Town Engineer.

I have prepared a draft Negative Declaration for the Board's consideration that addresses the above issues".

Comment #2: Applicant to discuss project.

Kirk Rother: The application before the Board is for a proposed 5,000 square foot commercial structure with one single-family residential unit. It is situated on approximately 0.95 acres of land within the LB zone. The lot lies on the northern side of County Route #6 aka Pulaski Highway. It is across JP Lane which is an extension of Schoolhouse Road. We propose 35 parking spaces which is associated with the project. Water is to be accomplished by an individual well. Sewage disposal will be served by an individual septic system. That is a brief summary on what the applicant proposes to do.

Comment #3: Replace references to the "Accessory Apartment" with "Residence".

Kirk Rother: Will do.

Comment #4: Special Condition 122 restricts parking from the front yard in this zoning district. Applicant shows parking within the front yard and requests a waiver. Board to discuss.

Mr. Astorino: We all know the reason. The reason is because of the shape of the lot. We have asked for mitigation. Do any Board members or Professionals have anything further on that?

Mr. McConnell: Isn't that in keeping with what the parking was on the previous building before it burned down?

Mr. Astorino: I believe so. We also asked for mitigation to offset it.

Comment #5: Show compliance with Special Condition 123 (one side yard should be a rear yard).

Kirk Rother: We spoke about this at a workshop. We will show the yard to be adjacent to the old railroad bed as the rear yard.

Comment #6: Per the Site Plan Checklist, on the architectural drawings, indicate the type and color of materials proposed for use. On the exterior elevations include the building height as defined by the Town Code.

Kirk Rother: I have just dropped off samples of the colors. It will be butter like color. The façade will be a fiber cement board. It is similar to clap board. The architectural drawing mimics the old Webster building. We will add the dimension of the building height to that plan.

Zen Wojcik: Also, put the other information on that plan as well.

Kirk Rother: Ok.

Comment #7: An eating and drinking establishment has been eliminated from consideration as a potential use at the building due to inadequate wellhead protection. Note in the General Notes that an eating and drinking establishment is a prohibited use in this building unless permitted by the Orange County Department of Health (OCHD).

Kirk Rother: Ok.

Comment #8: Seal all existing wells on the site in a manner consistent with the requirements of the OCHD. Note the location(s) on the plan.

Kirk Rother: Will do.

Zen Wojcik: We had this discussion at the workshop after Mr. Rother had left. How many wells are on the site?

Kirk Rother: I haven't seen any wells on the site. I spoke to Rob about this today. He thought he had seen what could have been possibly the remains of a well when he was demolishing the existing foundation that the casing was actually part of the concrete in the foundation. I personally have not seen this. Some of the Board members might have seen the site. There are no wells present at this point.

Mr. Astorino: If there are wells, they would have to be sealed appropriately.

Kirk Rother: Right.

Comment #9: The August 20, 2008, response letter from OCHD regarding the well location notes that "no further individual well water supplies be developed in this area unless all separation guidelines can be achieved." The letter also notes that area wells are "susceptible to high nitrate levels". On the plans, show an acceptable treatment method for managing nitrates in well water to be installed at the building, and obtain the approval of OCHD.

Kirk Rother: Right. I spoken to Zen about this earlier. We don't know that we have a nitrate problem on our property. I suggested that we test our water once the well is in. If there is nitrate present, then we would treat for it. Today, I spoke to Ed Sims at the OCHD as far as what that treatment would entail. There is a simple treatment mechanism. It is a type of water softening that removes the nitrates.

Mr. Astorino: Zen, is that what you want? Do you want the water tested once the well is completed?

Zen Wojcik: He would have to make a report to the Building Inspector on whatever whether it is a high nitrate level. This way we would have a record of it. The reason for going back to the Health Department was just what Mr. Rother had discussed. It was to determine what the best method would be. If we could get a letter from OCHD stating that it is an adequate method, that would be satisfactory.

Mr. Bollenbach: I want to go back to comment #8. Zen, regarding the wells, if they don't know of any now, Maybe, they could put a little note stating when they are doing the excavation work, if they do by chance come upon them that they do seal them. The idea is that you want to avoid any type of a contamination of that aquifer to adversely impact the new well.

Kirk Rother: That was what I told Rob today. We should poke around to see if we could find something.

Mr. Bollenbach: Yes. It would be to everyone's benefit to try to locate it and try to seal it.

Mr. Singer: I would like clarification on the fact that if he will be testing the well for nitrate, if there are no nitrate traces there, then could we permit him to have a restaurant?

Kirk Rother: Having a restaurant triggers us into the next level of water supply, a non-transient non-community water supply which has separation distances above and beyond what is typically required. In particular, the separation to the septic system. We only need 100 feet if we are not in that public water supply category. If we are, we would need 200 feet. I had said to the Board a couple of meetings ago that sometimes we could mitigate that by putting in deeper casings as much as 150 feet of casing. Ed Sims was uncomfortable in doing that in this particular instance because of the history of some water problems in this area.

Mr. Singer: Ok.

Comment #10: The conceptual drainage plan for the site shows that about half of the parking lot drains along the pavement towards the entrance. During winter months, runoff collecting at the low point (Sta. 0+25) may freeze, causing a hazard to in-turning traffic. Applicant to provide stormwater management measures to eliminate this hazard.

Kirk Rother: Right. I think what we are going to explore putting a catch basin into the County's pipe.

Mr. Astorino: That would be something you would have to touch base with the OCDPW.

Kirk Rother: Zen had already spoken to them. They had said as long as the capacity is there they might not have a problem with it.

Zen Wojcik: OCDPW had said they would review a calculation that you would provide for them showing that it would exceed the capacity. It would be their choice on whether they would accept it or not.

Kirk Rother: I have done that. The pipe is more than adequate.

Comment #11: Applicant to explain, since no eating and drinking establishment is being considered for the site, why a grease trap is shown on the site plan.

Kirk Rother: We forgot to remove it.

Mr. Bollenbach: On comment #11, delete the grease trap shown on site plan.

Comment #12: A proposed freestanding sign, conforming to the Code, is shown on the plans. Since it is possible that there will be more than one commercial occupant of the building, provide a detail for wall-mounted or window signs conforming to §164-43.1G.(1).d.

Kirk Rother: Ok.

Comment #13: Provide sight distance triangles at driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Dimension sight triangles. Indicate that actual sight distance equals or exceeds minimum sight distance.

Kirk Rother: Ok.

BEFORE FINAL APPROVAL:

Comment #14: Provide the declaration and the recording information on the plan for Aquifer Protection Overlay Notes.

Kirk Rother: Yes.

Comment #15: Applicant to provide 9-1-1 address.

Kirk Rother: Yes.

Comment #16: Pay a 3-year term landscape bond and inspection fee for screening plantings.

Kirk Rother: Ok.

Comment #17: Pay outstanding review fees.

Kirk Rother: Will do.

WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§164-46J.(122)	Parking restricted from front yard in the LB zone. Waiver requested to permit parking.

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

Mr. Bollenbach: We need to add a comment #18, revise landscaping to the Town Planner's specifications. We also need to add a comment #19, Town Engineer to verify lighting specifications.

Zen Wojcik: I spoke to Ted earlier today. Part of the Negative Declaration being prepared goes to exactly what he was talking about.

Mr. Astorino: It is already in there.

Zen Wojcik: Yes. We don't ordinarily go through the entire Negative Declaration. I just want to get on the record that the applicant's landscape plan includes 11 Spiraea Japonica which will be replaced with a suitable shrub that is not considered to be an invasive exotic.

Mr. Astorino: Ok. Does the Board or Professionals have anything further? This is a public hearing. If there is anyone in the audience wishing to address the Webster Plaza application, please rise and state your name for the record.

Peter Kowalsky: I am concerned about this well situation. Would this affect my well? Would it take water away from my home?

Mr. Astorino: It is in an Aquifer Protection Overlay District. That means that there is a great volume of water there. We want to protect that aquifer. If there are existing wells, we want to make sure they are closed properly. We know that there is water out there. There is a lot of it. Our goal is that we want to protect it. I don't think you are going to have a problem with water volume or affecting any wells out there.

Peter Kowalsky: Is the 1500 gallon septic system big enough for a building of that size?

Mr. Astorino: Yes. It is sized to the requirements.

Peter Kowalsky: Ok. That is it. I was just concerned about the water.

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

Diana Fox: I live across the street on Schoolhouse Road. My backyard abuts up against Pulaski Highway. I was wondering what the results were of a soil study as far as tank removal?

Mr. Astorino: Do you mean oil tank removal?

Diana Fox: Tank removal.

Zen Wojcik: Are there any underground oil tanks?

Diana Fox: Yes. They were removed from the property.

Rob Schreibeis: It was a steel molasses tank. It was just one molasses tank. It had a burner/furnace.

Diana Fox: Do we have the results of that?

Mr. Astorino: Molasses is not a hazardous material.

Diana Fox: Are you certain that it was molasses?

Zen Wojcik: Rob, how do you know that it was a molasses tank?

Rob Schreibeis: I have a complete environmental study of the property.

Zen Wojcik: That is what Mrs. Fox is asking for.

Rob Schreibeis: Yes. It has been done.

Diana Fox: Ok. Do you have it tonight? Do you have copies of it?

Zen Wojcik: You could submit a copy of that to the Town.

Rob Schreibeis: Yes.

Zen Wojcik: Once the environmental study has been submitted to the Town. She could FOIL it.

Diana Fox: When will that be in?

Rob Schreibeis: I have it. I could bring in a copy for the Town if the Town so pleases.

Diana Fox: That will be tomorrow, which is Thursday. My next question is, we have been here 11 years. My neighbor has been here longer. She is 102 years old. Her daughter is well into her 60's. The one thing she knows of the Webster Barn was that Mr. Webster did keep coal on the property and piles of it. Would that be included in the study?

Rob Schreibeis: Absolutely.

Diana Fox: Ok. I have a question about lighting and screening. I wasn't certain on that.

Mr. Astorino: It has to meet the Town Code requirements. Lighting has to be down lighting. There has to be so many foot-candles from the property line. As far as the landscape screening, it has to meet the design standards. We had just discussed that. They were talking about having some parking in the front. We asked for additional mitigation. There will be more screening. He has to put up a 3-year landscape bond.

Diana Fox: My other question is that the Lepski's household which is directly across the street, their household is close to Pulaski Highway. What happens after almost every thunderstorm is that the drainage down here floods their front yard. The Town has to come out and put cones out because the drainage is so poor.

Mr. Astorino: It sounds like the County does that.

Diana Fox: Yes. The guys come down and put the cones out. We have a school on Schoolhouse Road. Sometimes the buses are diverted around the flooding.

Mr. Astorino: That happens on Pulaski Highway?

Diana Fox: Yes. It is on Pulaski Highway. Where does that water go?

Mr. Astorino: There is a pipe under Pulaski Highway. Is that correct?

Zen Wojcik: The County has drainage pipes over there. I think there are 3 inlets. That water goes into the old railroad Right-Of-Way. That runs in front of this project. That is where it goes. I spoke with the County Engineer to ask him about the possibility of having the drainage that is coming over here to go into their system. He said that he would review some calculations. There is no guarantee that they are going to accept it. If there is a problem and he is aware of that, maybe he won't accept it.

Diana Fox: If you are going to put drainage in, the water comes back under the highway to my side where my backyard shed and pool is located. I don't want there to be a sink hole or a collapse. I am kind of hearing that the water could go under the highway.

Mr. Astorino: Zen, where is it going now?

Zen Wojcik: The water goes under the highway right now with 2 culverts. I am looking at the plan. There is a culvert outside of JP Lane. It is more or less to the property owned by Jados. That use to be a railroad R.O.W. That is where the water goes right now.

Kirk Rother shows the map to Mrs. Fox. Mrs. Fox locates on the map where her property is located. She shows Kirk on the map where her water concerns are on her property. She is concerned that her shed, pool, and fence would sink. Kirk tells Mrs. Fox that all of the water runs in the opposite direction which is away from Mrs. Fox residence.

Zen Wojcik: Mrs. Fox, the problem that you are having is connected with the highway. It is a County Highway. That is something you should bring up with the OCDPW. We cannot do anything about that. This is not the County. This is the Town.

Diana Fox: I know that. But, if we talk about 5,000 square foot of possible occupants coming in and having toilets flushing...

Mr. Astorino: None of their water is going to be down a swale. What we are talking about is runoff from the site. There is runoff on that site right now. It is going into the swale. It will continue to do so. Is that correct?

Kirk Rother: Yes.

Diana Fox: Ok.

Mr. Kowal: What you are saying is that if there is flooding now on that corner and if you are tied into that system, would that add to the problem?

Kirk Rother: I think if there is flooding in that corner it is because that pipe and catch basin is full of dirt.

Diana Fox: Ok.

Mr. Astorino: That would be something for the County.

Mr. Kowal: On the other side of the street where that pipe connects into the other, that other square on the map, is that a catch basin?

Kirk Rother: On the map, there is a catch basin here. It goes out into another structure with a headwall. There is another catch basin located here that flows across the street.

Zen Wojcik: It is something that you should bring up to OCDPW.

Diana Fox: Right. It also affects the Lepski's. It is their driveway. It is something that I will write a letter about.

Zen Wojcik: Give OCDPW a call.

Mr. Bollenbach: Zen, maybe you could also give OCDPW a call to give them a heads up.

Zen Wojcik: Ok.

Diana Fox: Could I get this environmental study report tomorrow?

Rob Schreibeis: If you give me your phone number, I will contact you directly.

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

Joe Jados: The water does go down through our farm. I am also concerned about more water coming. I run 10" to 12" pumps on diesel. We own the railroad R.O.W. That is our property. We own from the center of Legion Road 76 feet to that property. He has about 20 something feet in road frontage. I am planning on opening up that road to our farm. Will I be able to come in with tractor-trailers and swing around in front of that building?

Mr. Astorino: Are you talking about the entrance of his property?

Kirk Rother and Mr. Jados take a look at the plan. Mr. Jados shows Kirk on the map the 76 feet of road that he owns. They discuss the situation of the road.

Mr. Astorino: You are not going into his driveway.

Joe Jados: It is our road. Go look at the front of that building. The railroad is right next to that building. Russ is familiar with it.

Zen Wojcik: That was what we were talking about when working with different plans for parking in the front and back. Looking at the map, there is an entrance over here that they propose to go out to the County Road.

Joe Jados: But, that is the railroad opening.

Zen Wojcik: Their frontage is on the road. It is not going all the way over. The OCDPW reviewed that. I think they had more of a positive comment on this. If you ever want to come out onto the County Road, you will have to get OCDPW to approve yours as well.

Joe Jados: That is fine.

Lou Jados: The Town of Warwick has told everybody that you could build back on the original foundation. There is only one acre of property on his property. Now, you want to put up a 5,000 square foot building and have so much room for him to go around and park, how could you do that? Theirs would have to be set away from our railroad track and the Legion's property. If there is 20 feet from our property and 20 feet from the Legion, there is not much footage left for him to put this 5,000 square foot building.

Joe Jados: Since that is Ag property and our property is Ag there is no reason that we can't park 4 48-foot trailers with plates on it and leave them there until we need them on our R.O.W.

Mr. Astorino: That would be your call.

Lou Jados: Everybody else was concerned about the site when the Legion bought the property from the other guy. The guy put the building down because they could not see in and out of the Legion. How is this 5,000 square foot building not affecting it?

Mr. Astorino: As far as setbacks, they would have to meet the Town's requirements.

Joe Jados: It is not even an acre.

Zen Wojcik: It still meets the requirement in this zone.

Mr. Astorino: That is in the LB zone.

Joe Jados: Where would you park cars?

Zen Wojcik: He has more parking spaces than what is required.

Lou Jados: You were talking about putting in a 1500 gallon septic in here. There are no wells. Where would he get the water from?

Mr. Astorino: He will be digging his own well.

Joe Jados: There are 3 wells there already.

Mr. Astorino: He will abandon those wells and fill them in to OCHD specifications.

Joe Jados: He is claiming that there are none.

Mr. Astorino: We are claiming that he will have to find them. Do you know where they are?

Joe Jados: We knew before he leveled it off.

Mr. Astorino: Do you know the general vicinity?

Joe Jados: Not now.

Lou Jados: I have an idea where they are. But, they are now filled with dirt. I don't understand if somebody else wants to do something, they would have to build it on an old foundation.

Mr. Astorino: That is not always the case.

Lou Jados: This guy levels it off. There is not enough room because it is a triangular lot.

Zen Wojcik: The "rule" about building on an old foundation in our code states that if a building burns down and somebody came back within a year the Building Inspector could give them a permit and off they would go. That is the "rule" that we have. It has been more than a year.

Lou Jados: That is not true in the Town of Warwick.

Zen Wojcik: That is what the code says.

Mr. Astorino: We are getting far off here. Let us start with the drainage issue.

Zen Wojcik: Regarding the drainage, what Mr. Rother had said tonight, he would try to get the approval of the County to put in another inlet on the County's drainage. That is the County's prerogative to accept this drainage water or not. Usually, it is based upon the capacity of the pipe. I have spoken to the County's Engineer about this. That was what he had told me.

Joe Jados: There is another culvert that is supposed to take the water between the old frame Mozzard Farm. That is closed up. It is all coming our way.

Zen Wojcik: My point here is that is the County's drainage. If you have a problem with the County, just like Mrs. Fox has, you will need to bring that up with OCDPW. We can't help.

Mr. Astorino: The water that is going down that swale, are we adding to that?

Zen Wojcik: We would be adding to that if they ran that connection. It is not that option. One of the options that we gave to Mr. Rother was to reconfigure the site and put the wells somewhere else. He would use the area over there as a rain garden. That would try to handle some of the drainage water on the site. That was another option. I also told him that there might be other options. If he comes up with another idea, we would be happy to hear it. This is one solution.

Mr. Astorino: If the County agrees to it.

Zen Wojcik: If the County says no, then he would come back to talk to me to say that he could not do that and that he would have to do something else.

Mr. Astorino: Have you ever spoken to the County about this?

Joe Jados: Yes. I told them that there was one culvert halfway down our railroad track that somebody plugged it from the other side. They said to me if I wanted to open it up, I could do that and put a culvert in.

Mr. Astorino: Is this on a County Road?

Joe Jados: No. It is not on a County Road. It is on that railroad track back further.

Zen Wojcik: If they put water on your property, there was an agreement to do this?

Mr. Astorino: Back in the days, they just did it.

Zen Wojcik: As far as where this building is set up, this building as it is shown on the plan, we reviewed it. It is in accordance with the code.

Mr. Astorino: Is that as far as setbacks?

Zen Wojcik: It is as far as setbacks, parking spaces, and everything else. It is all permissible within this zone of the Town.

Mr. Kowal: Are you saying that the railroad bed is over more than what is shown on here?

Joe Jados: I would think so. Obviously, he has a deed or a title that shows something else.

Mr. Kowal: It has been surveyed. Is that correct?

Kirk Rother: We had it surveyed.

Joe Jados: Do you have the peg on the edge of the property that I could look at tomorrow?

Kirk Rother: I don't know if the pins have been found.

Joe Jados: I don't see any pins there.

Kirk Rother: We are pretty close to the dimension that you are saying. You said 76 feet.

Joe Jados: It is 76 feet from the road. I am just saying that if we start parking stuff there, I don't want to hear nothing later. Right now, I let my neighbor of Green Valley park trailers there. He parks on that railroad bed. Trailers have been parked there forever.

Mr. Astorino: That is your property.

Joe Jados: Yes. It is my property.

Mr. McConnell: That sounds like a risk that he is assuming.

Joe Jados: Ok. I am just saying that. I let Green Valley park there.

Mr. Astorino: That is your right. It is what it is. It is your property.

Joe Jados: Green Valley has been using it forever.

Mr. Astorino: The applicant is fully aware of that.

Joe Jados: Ok. Thank you.

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

Michael Fox: I don't want to beat a dead horse regarding the drainage issue. To say it is a County issue when the water hits the road...

Mr. Astorino: It is the County's issue.

Michael Fox: The reason that we are here is to talk about this whole thing. You are talking about putting in a 5,000 square foot building with all that parking space where you have a lot now where it is grass and dirt. When it rains, that grass and dirt absorbs some of it.

Zen Wojcik: Right.

Mr. Astorino: That is why we are here.

Zen Wojcik: Here is the rationale that we have. We are going to have a paved surface of this parking lot. Part of this pavement is going to be collecting at a low point where everybody will be turning in. In the wintertime, that could freeze. We asked the engineer to come up with a solution. The 2 solutions that we came up with was one connecting to the County's drainage. That would be the County's call. The County said that they would take a look at that. They didn't tell me that they would approve that. They will take a look at it. If they think it would work, it would be their responsibility. It is their pipe. Then, they might let them do that. On the other hand, they might not. In which case, they might either use my solution or come up with something else. We have to take care of the drainage somehow and somehow.

Michael Fox: I understand that. I understand that it is a commercial lot and something will go in there. That is fine.

Mr. Astorino: It would have to be done correctly. That is what we are here for.

Michael Fox: The reason that we are here is to discuss what is going on and what the possibilities are. You say that it is the County's problem. The County doesn't sit well with everyone sitting here.

Mr. Astorino: We are not saying that it is the County's problem. When it gets onto a County Road, we don't have control over their drainage. We can't tell the applicant to hook into their drainage.

Diana Fox: Why not?

Mr. Astorino: It is not a Town road. That is why you have jurisdictions. We can't go onto a State road. We have no authority to say to the County that you take his water. They have to approve the entrance onto their road.

Michael Fox: Being a Town resident and having a business going into the Town before it hits that County issue, it is a Warwick issue. That new lot might create that problem.

Mr. Astorino: Our engineer pointed out numerous times that it will go to the County. The County Engineers will look at it and they will make that call on their road and their pipe. If they come back and say that they won't allow it, then it would go back to our Engineer to say ok you are not building anything at this point until this is satisfied.

Michael Fox: Would we have another meeting here where we could all listen to the plan?

Mr. Astorino: It depends. We haven't heard everybody's concerns. Right now, I would put it to the Town Engineer's specifications that he would come up with a solution that would work for everyone.

Zen Wojcik: The process with the Planning Board is to determine when someone comes in with an application if it meets the requirements of the code and to protect everyone in the Town. It is not just the applicant. That is the purpose of the process.

Michael Fox: I understand that. When we are sitting here and hear that when it hits the County road and drain, we have to address it with the County. It doesn't sit well when we are residents of Warwick. That is what we are trying to get across.

Zen Wojcik: You could also call OCDPW and tell them that you were here tonight at the meeting. You could tell them that you heard about this plan about connecting through their drainage and that you object to it. That is your right to do that.

Diane Fox: We are still concerned about the drainage issues.

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

Wayne Miller: I represent the PLAV. I haven't had a chance to look at the plans. I have two concerns. I have a concern about snow removal along Legion Road. Back here, we have to maintain a fire lane coming around the back of the building. This is a R.O.W. going to the house in back. The snow always gets plowed to the side of the road. Is that going to be a problem or conflict?

Zen Wojcik: Does the snow go behind your monument?

Wayne Miller: Yes. That is what I am saying.

Mr. Astorino: How wide is Legion Road?

Wayne Miller: It is a 2 lane road.

Mr. Astorino: It is about a 16-foot to 18-foot wide roadway.

Wayne Miller: Yes. It is something like that.

Kirk Rother: Our parking lot is approximately 10 feet to the nearest point. They are a little bit further away from that. I don't think we would preclude you from plowing snow in that area eventhough you would be plowing onto his property.

Wayne Miller: That was my concern.

Zen Wojcik: You have been plowing it onto somebody else's property? How many years have you been doing that?

Wayne Miller: When Webster owned it, we had no problems. Now, we have a new owner. Are we going to have a problem? The other thing was the fire lane down back. I didn't realize that the building was coming this far back. You are going to have a resident living on the 2nd floor. Beware, you are talking about a risk. We have functions in the summer. We have an outdoor pavilion. We have a hall. There will be noise.

Mr. Astorino: We have brought that up. This residence is in a commercial zone. It is hard to miss your sign out there that says PLAV. Is there anyone else wishing to address the Webster Plaza application? Let the record show no further public comment. What is the Board's pleasure regarding this drainage? Do any Board members or Professionals have any questions on this matter? That was our biggest issue.

Mr. Kowal: I have a question for Zen. If the County says no to tie into the drainage and you have to put the water garden where the well is, would that significantly change the layout? Where would the well go?

Zen Wojcik: No. When we discussed this at the workshop, we noticed that they have more parking spaces than the minimum required in the code. If they put the well on the far end of the property closer to the PLAV, they could lose a parking spot or two. They would still have sufficient parking for the building, protection for the well, and the location to put the drainage as well.

Mr. Astorino: What would this do as far as the drainage if we put the rain garden in?

Zen Wojcik: Right now, as Mrs. Fox had noted, when it rains it goes into the ground that is not paved. We would be directing water to an area where it is not paved. A rain garden is a type of stormwater management facility.

Mr. Astorino: I know what that is. Wouldn't that be the wisest thing to do?

Mr. Bollenbach: Explain to the public what a rain garden is.

Zen Wojcik: A rain garden is a type of stormwater management facility. It looks like a garden. It gets dug out. Certain types of soil is placed in there so when water goes in there it is more advantageously taken into the groundwater. It cleans up the water. It is a water quality feature. It has been promoted not just by the State of New York but also by other States as well as a way of handling stormwater. This would be an alternative to dealing with the stormwater as well.

Mr. Astorino: There seems to be issues on the County road. Wouldn't that be the wisest move at this point to install a rain garden? It would take care of that issue.

Mr. McConnell: Yes.

Mr. Astorino: You wouldn't be throwing more water onto the County road. Then you would be done with it.

Mr. Singer: Do we have calculations that the rain garden would be able to handle the runoff?

Mr. Astorino: That was what Zen had just said.

Zen Wojcik: It would have to be sized.

Mr. Astorino: They would have to be aware that they might lose a parking space or two to make it size properly for the site.

Mr. Singer: Does the rain garden change the quality of the water or the quantity?

Zen Wojcik: It clarifies the quality of the water as a filter.

Mr. Singer: Could it handle the quantity?

Zen Wojcik: Yes.

Kirk Rother: It is not its primary purpose. It does accomplish a little bit detention because it fills up.

Zen Wojcik: The water going down has nowhere to go right now except into the parking lot or onto the highway.

Mr. Singer: We wouldn't want to eliminate the County on this. Why not look towards the County?

Mr. Bollenbach: I suggested before that Zen get in touch with the County to see if they would address the County problem. With this particular site, there seems to be ample locations on site to provide a water garden so that it doesn't create any additional off site runoff.

Mr. Astorino: I am going by the public here this evening. They said they had flooding issues. Why add anymore out there? The site could handle it. Bump a couple spots and be done with it. You could still touch base with the County. We will touch base with the County for you. If I were the public, I would still make a call to the County. Would the Board be ok with that?

Mr. McConnell: Yes.

Mr. Astorino: Ok. We will make a note to that effect.

Mr. Bollenbach: I have already incorporated that into comment #10.

Mr. Astorino: Does the public have anything further? Let the record show no further public comment.

Mr. McConnell makes a motion for the Negative Declaration.

617.12(b)

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

Name of Action: Webster Plaza Site Plan

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed 5,000 square foot mixed-use building in the Hamlet of Pine Island, Town of Warwick, Orange County, New York, and

Whereas, there are other involved agencies pursuant to SEQR, including the Orange County Departments of Health and Public Works, which will make their own determinations of significance and

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

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

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

Mr. Singer: I don't think we are ready for a Negative Declaration until we have more information on the drainage issue. Let us see what the County says. Let us see what Kirk comes up with this plan for the rain garden.

Mr. Astorino: Is that the Board's feeling?

Mr. Kowal: I would like to see the specifications on it just to be sure. The farmers had said they want to reduce runoff onto their property. I don't know if we could approve it on the either or basis. I would like to see the specifications on the water garden.

Mr. Singer: Let us wait a little longer.

Zen Wojcik: The question that I asked the County was that we have a proposed commercial development with water coming off the parking lot. The County has a pipe. Would they want to look at calculations for accepting that water assuming that the capacity would be fine? They told me they would look at the calculations.

Mr. Singer: So, it hasn't been submitted to them yet.

Zen Wojcik: There is no way if I asked any agency on whether they would let me do this that they would give me an answer on the telephone, I don't think they would do that.

Mr. Singer: If they want to see the calculations, give it to them.

Mr. Astorino: Let us go back. It seems to me the public here this evening has issues with the County. Is that correct? That is what I heard this evening.

Mr. Singer: What they are saying is that the issue would get worse because of the pavement on this project.

Mr. Astorino: That was why we proposed a rain garden. Why do you even want to go to the County at this point? I am going through Carl's theory. If we go to the County and they say, yes throw in a basin in there and hook it up to the pipe...

Mr. Singer: I am not sure which way is better.

Mr. Astorino: I am going by what I heard this evening from the residents.

Mr. Singer: Kirk, what do you think would be better? Would a rain garden or pipe be better?

Kirk Rother: There is a little bit of a bigger picture to the drainage here than what you may be aware of. It is only a portion of our entrance. Our entrance road, the County requires that we come off their edge of pavement at a negative grade of -2%. Then, we would rise up to our site for our building and parking. That would be creating a low point in our entry road. That was what Zen was concerned about as far as the ponding area. I agree with him. Drainage that would go into that low point is a portion of the parking lot and the entrance. The rest of the site is graded. It would then drain into the ditch. It would continue out to Jados. The issue with the County is, do we want to put a catch basin over the pipe that is there to drain this low point ponding area and to put it into their pipe? Then, it would flow into the same ditch. Or, are we going to create our own depression, which would not be necessary. It is not necessary as per the SPDES permit requirements because we are under the threshold. Putting a depression there, it would help clean the water and detain it. It would then drain into the swale. As far as the drainage across the street and their concerns, I am very comfortable in saying that we would not affect them. Their problems were downstream of them. Their problems are sediment and their structures. The downstream properties will get runoff from our site. They get runoff now. They will continue to get runoff. With the increase of imperviousness, would they get a little bit more? Yes. A rain garden could probably off set that to some extent. A rain garden would be definitely desired.

Mr. Singer: Unlike residential properties, where we say no more water would come off it after than before, this would be different.

Kirk Rother: We are not hitting the threshold that requires us to visit that.

Zen Wojcik: Another applicant had a 2-lot subdivision. They were disturbing a little more than an acre. That would also be under the radar here. The Board has been proactive particularly in certain parts of a critical environment in Warwick in asking the applicants to do more. They ought to do more. You have that power under SEQR to do that. This is another situation where you are right on the edge of the black dirt. All the water is going into the black dirt. Any improvement that the applicant could do for the runoff, it would potentially be a benefit. Putting it into the County's pipe, it would be a quick way of getting rid of the water. It is an effective way of getting rid of the water. It also pushes the responsibility of the County. Putting it into a rain garden or some other stormwater facility that is on the site, would be also an effective way of dealing with the stormwater. There is no better solution.

Mr. McConnell: What is the percentage of the water runoff are we talking about? Right now, 100% of the water goes somewhere.

Kirk Rother: Right now, 100% of the water goes into the ditch that eventually flows to the Jados Farm.

Mr. Singer: It is not 100%. Some of it is being absorbed by the soil.

Kirk Rother: You are right.

Mr. McConnell: What we are talking about here in terms of feeding into the County's pipe or into a rain garden is what percentage of the whole?

Kirk Rother: I would say about 20% or 25%.

Zen Wojcik: It might be a little more than that. My guess would be somewhere between 30% and 40%.

Mr. McConnell: Could that be by different grading?

Kirk Rother: I don't think it is that much.

Kirk Rother goes over the plan with the Planning Board and discusses what the percentage of the runoff could possibly be. Kirk explains that it would all end up in the same place. The only reason Kirk would entertain in putting in a catch basin would be so they wouldn't lose any parking spaces. If the applicant puts in a rain garden, then they might lose some parking spaces. Given the concerns, Kirk feels that a rain garden would be the better alternative. If the applicant would have to lose a couple parking spots, then he would have to lose them.

Joe Jados: How would that water get into the County's ditch?

Kirk Rother shows the plan to Mr. Jados and explains to him how the water would get to the County's ditch. Mr. Jados is not too happy with the water issue. Lou Jados comes up before the Board and explains that years ago the water that went from Webster's property went between the Legion and on the other side of the railroad track. The problem that the applicant would have is the guy that bought Frank Moznert's house, he does not maintain that ditch at all. Lou Jados goes on to say; what would happen is they will give the Jados property more water. Right now, it puddles over there and stays as is.

Mr. Astorino: Are you planning to raise that railroad bed?

Lou Jados: Eventually, we want to open it up. My brother and I are probably the last two that will farm on our land. Eventually, I am not going to want trailers to come behind my house. I am going to open up an entrance for whoever comes and buys our packinghouse and building, they would be able to go and out through the main road. It would alleviate the traffic behind our house. We have a right to do that.

Joe Jados: If we have to get on this right of way in opening this road up, we will do it.

Zen Wojcik: If you were going to put in a road, you would have to go to the County for review.

Joe Jados: Correct.

Zen Wojcik: The County would say, what is happening with our drainage?

Joe Jados: It has nothing to do with their drainage.

Zen Wojcik: If you want to go on their road, it has everything to do with the County. It is their road.

Joe Jados: The water from their road is going onto my property.

Lou Jados: We are not looking to stop this applicant from building. We just have concerns. We are just looking at the options with our road.

Zen Wojcik: We are looking for a way in having this happen without an adverse impact on anybody. We don't see a plan for your road. Nothing has come in. You haven't drawn anything up. The County and the Town hasn't reviewed it.

Mr. Astorino: We heard about this. What does the Board want to do?

Mr. Bollenbach: I think the Board would like to see more information. We could adjourn the public hearing to November 5, 2008. That would give ample time.

Mr. McConnell makes a motion to adjourn the R Land, LLC c/o Robert Schreibeis, Jr. / Webster Plaza public hearing to the November 5, 2008 Planning Board meeting.

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

Mr. Astorino: To the residents, the Webster Plaza public hearing has been adjourned to the November 5th Planning Board meeting. This is your notice. There will be no other notices sent.

Kirk Rother: Thank you.

Review of Submitted Maps:***Michael Buono Subdivision***

Application for sketch plat review of a proposed 2-Lot (Minor) subdivision, situated on tax parcel S 10 B 1 L 64.3; parcel located on the western side of Glenwood Road 500 feet south of Newport Bridge Road, in the RU zone, of the Town of Warwick. ZBA granted variance for the undersized lot, granted on 4/28/08. Previously discussed at the 3/19/08 Planning Board meeting.

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

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. Lead Agency.
2. Applicant to discuss project.
3. FOR THE RECORD – The Applicant has obtained a variance from the ZBA for lot area.
4. Show tree line; locate significant trees.
5. The buildable area is incomplete; there is insufficient topography to determine if there are any slopes $\geq 15\%$ in the buildable area.
6. According to the mapping of soil types on the submitted plan, the proposed dwelling site and possibly the septic field may be situated in ErB soils, a Group VIII soil type. Septic systems may be permitted by an exemption from the Planning Board. Clarify the limits of Group VIII soils at the homesite area. If the applicant's engineer feels that the soil mapping is inaccurate, follow the Town's "poor soil" protocol.
7. Extend the pipe sleeve for the septic distribution pipe under the proposed retaining wall. Call-out the size and material of the pipe sleeve and show it on the Modular Retaining Wall detail and the Driveway Profile. Show invert elevations on these details. Clean-outs shall be located just beyond either end of the sleeve. Show the distribution pipe on the Curtain Drain detail and show that it does not conflict with the perforated pipe drain.
8. Place silt fence across the limit of disturbance for construction of the septic distribution pipe.
9. Note the surface material of the Lot #1 driveway.
10. Place driveway stations on the Grading & Utility Plan.
11. Place Standard Driveway Notes on plans (note that the Typical Driveway Section is inconsistent with Section A168-19 of the Town Code):
 - Driveways shall be designed and constructed in compliance with Section A168-19 of the Town Code.
 - Driveway grade for the first 25 feet shall not exceed 8%.
 - At Lot #1, the first 25 feet of driveway shall be paved.
 - At Lot #2, the driveway shall be paved in its entirety.
12. Place the following notes on the plans:
 - "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."
 - "Embankment slopes at the Lot #2 driveway shall not be constructed steeper than 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 slope has been properly compacted and graded according to the approved plan. Topsoil shall be placed on the finished slope, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slope shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). The individual property owner is responsible for maintaining the continued stability of the slopes.”

13. Place a detail for rolled erosion control product as slope stabilization on the plan.

BEFORE FINAL APPROVAL:

14. Provide the declaration and the recording information on the plan for Radon Reduction Notes and Agricultural Protection Notes.

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

16. Applicant to provide 9-1-1 addressing.

17. Pay parkland fees.

18. Pay outstanding review fees

The following comment submitted by the Conservation Board:

Michael Buono Subdivision – None submitted.

The following comment submitted by the ARB, dated 10/1/08:

Michael Buono Subdivision - The ARB requests elevations for all four sides for the proposed building on the Buono subdivision.

Comment #1: Board to discuss SEQR.

A. Lead Agency.

Mr. McConnell: This SEQR comment has been prepared by Mr. Ted Fink, dated 10/1/08: “The Planning Board has not yet declared itself Lead Agency for this Unlisted Action since the application did not comply with the Zoning Law and was therefore, subject to issuance of an area variance first by the Zoning Board of Appeals. The applicant provided the Planning Board with a Short Environmental Assessment Form. This is an Unlisted Action and the Town ZBA and County Department of Public Works are Involved Agencies but these agencies have or will make their own determinations of significance under SEQR. A draft Lead agency resolution has been prepared for the Board’s consideration. The principal SEQR issue is construction on steep slopes and the potential for erosion and sedimentation of surface waters due to the proximity of the site to the Pochuck Creek.”

Mr. Singer makes a motion for Lead Agency.

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

617.6

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency

Unlisted Action Undergoing Uncoordinated Review

Name of Action: Buono Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Michael Buono for a \pm 6.489 acre parcel of land located at Glenwood Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 2/26/08 was submitted at the time of application, and

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

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

Whereas, after examining the EAF, the Planning Board has determined that there are 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.

Karen Emmerich: We are proposing a 2-lot subdivision on Glenwood Road. It is approximately 6.5 acre parcel. One lot is 2.39 acres in size. The other lot is 4.1 acres in size. We have received an area variance from the ZBA for proposed lot 1. There is an existing dwelling on lot 1. We are proposing one additional dwelling on lot 2.

Comment #3: FOR THE RECORD – The Applicant has obtained a variance from the ZBA for lot area.

Comment #4: Show tree line; locate significant trees.

Karen Emmerich: We will have the surveyor pick up any significant trees. There might be one or two significant trees. There are a number of trees on the parcel, but there are not many large diameter trees.

Comment #5: The buildable area is incomplete; there is insufficient topography to determine if there are any slopes $\geq 15\%$ in the buildable area.

Karen Emmerich: Will do.

Comment #6: According to the mapping of soil types on the submitted plan, the proposed dwelling site and possibly the septic field may be situated in ErB soils, a Group VIII soil type. Septic systems may be permitted by an exemption from the Planning Board. Clarify the limits of Group VIII soils at the homesite area. If the applicant's engineer feels that the soil mapping is inaccurate, follow the Town's "poor soil" protocol.

Karen Emmerich: Dave will prepare a letter. We have done soil tests. The results were good. The longest perc was 12.6 minutes. We are comfortable with what is out there.

Comment #7: Extend the pipe sleeve for the septic distribution pipe under the proposed retaining wall. Call-out the size and material of the pipe sleeve and show it on the Modular Retaining Wall detail and the Driveway Profile. Show invert elevations on these details. Clean-outs shall be located just beyond either end of the sleeve. Show the distribution pipe on the Curtain Drain detail and show that it does not conflict with the perforated pipe drain.

Karen Emmerich: Will do.

Comment #8: Place silt fence across the limit of disturbance for construction of the septic distribution pipe.

Karen Emmerich: Will do.

Comment #9: Note the surface material of the Lot #1 driveway.

Karen Emmerich: Ok.

Comment #10: Place driveway stations on the Grading & Utility Plan.

Karen Emmerich: Will do.

Comment #11: Place Standard Driveway Notes on plans (note that the Typical Driveway Section is inconsistent with Section A168-19 of the Town Code):

- Driveways shall be designed and constructed in compliance with Section A168-19 of the Town Code.
- Driveway grade for the first 25 feet shall not exceed 8%.
- At Lot #1, the first 25 feet of driveway shall be paved.
- At Lot #2, the driveway shall be paved in its entirety.

Karen Emmerich: Ok.

Comment #12: Place the following notes on the plans:

- “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.”

Karen Emmerich: Ok.

- “Embankment slopes at the Lot #2 driveway shall not be constructed steeper than 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 slope has been properly compacted and graded according to the approved plan. Topsoil shall be placed on the finished slope, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slope shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). The individual property owner is responsible for maintaining the continued stability of the slopes.”

Karen Emmerich: Ok.

Comment #13: Place a detail for rolled erosion control product as slope stabilization on the plan.

Karen Emmerich: Ok.

BEFORE FINAL APPROVAL:

Comment #14: Provide the declaration and the recording information on the plan for Radon Reduction Notes and Agricultural Protection Notes.

Karen Emmerich: Ok.

Mr. Bollenbach: We will need to add to comment #14; and slope stabilization.

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

Karen Emmerich: Ok.

Comment #16: Applicant to provide 9-1-1 addressing.

Karen Emmerich: Will do.

Comment #17: Pay parkland fees.

Karen Emmerich: Ok.

Comment #18: Pay outstanding review fees.

Karen Emmerich: Ok.

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

Karen Emmerich: We request to be set for a public hearing. We have the comments. You will have to send it OCDPW.

Mr. Kowal makes a motion to set the Michael Buono application for a Final Public Hearing at the next available agenda.

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

Connie Sardo: Mr. Chairman, we have a comment from the ARB, dated 10/1/08. They would like to see elevations for all four sides of the proposed building.

Karen Emmerich: I don't think he has any kind of a structure proposed at this time. I will ask the applicant. If he has something, we will provide that.

Connie Sardo: Karen, you said that this application has to go to OCDPW.

Karen Emmerich: Yes.

Connie Sardo: Could you please send me an extra updated map that I could send to OCDPW?

Karen Emmerich: Yes. Thank you.

Other Considerations:

1. **Round Hill Subdivision** – Letter from Steven Spiegel, Attorney, dated 9/18/08 addressed to the Planning Board – in regards to Round Hill Subdivision requesting a “**2nd Re-Approval**” of Final Approval of a proposed 19-Lot + 1-Ag Lot cluster subdivision, entitled, “**Round Hill Subdivision**”, formerly Wheeler Estates, located on tax parcel S 7 B 2 L 51.1; parcel located along the northerly side of Wheeler Road between Meadow Road and Hunt Drive, in the RU zone, of the Town of Warwick, County of Orange, State of New York. 1st Re-Approval was granted on 10/17/07. *The 2nd Re-Approval is needed because of the condition of final approval requiring construction of roads and significant infrastructure, which real estate market and financial conditions do not permit at this time.* The 2nd Re-Approval becomes effective on, 10/17/08, subject to the conditions of Final Approval granted on, 10/18/06.

Mr. McConnell: When was this application originally approved.

Connie Sardo: They received final approval on 10/18/06. Then, they received their 1st Re-Approval on 10/17/07. This is their 2nd Re-Approval. I guess that times are a little tough right now.

Mr. McConnell makes a motion on the Round Hill Subdivision, granting a **2nd Re-Approval** of Final Approval for a proposed 19-Lot + 1-Ag Lot Cluster subdivision, entitled, “**Round Hill Subdivision**”, formerly Wheeler Estates, located on tax parcel S 7 B 2 L 51.1; parcel located along the northerly side of Wheeler Road between Meadow Road and Hunt Drive, in the RU zone of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on 10/18/06.

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

2. **Warwick Isle Corp.** – Letter from Kirk Rother, P.E., dated 9/24/08 addressed to the Planning Board – in regards to Warwick Isle Corp., requesting a 4th 6-Month Extension on preliminary approval of a proposed 30-Lot + 3-Affordable Homes subdivision, SBL # 3-1-6.21. Preliminary Approval was granted on 6/21/06. *The applicant is still under review with the OCHD.* The 3rd 6-Month Extension was granted on 12/5/07 and became effective on 12/21/07. The 4th 6-Month Extension becomes effective on, 6/21/08.

Mr. Singer makes a motion on the Warwick Isle Corp., application, granting a 4th 6-Month Extension on preliminary approval of a proposed 30-Lot + 3-Affordable Homes Subdivision, SBL # 3-1-6.21. Preliminary Approval was granted on 6/21/06.

Seconded by Mr. Kowal.

Mr. McConnell: The dates don't seem to line up here. It says the 3rd 6-month extension was granted on 12/5/07 and became effective 12/21/07. 6-months to that goes to June. The 4th 6-month extension becomes effective on 6/21/08, but we are now in October.

Connie Sardo: I know that. They should have sent this letter to us back in June. The extension would become effective in June. They are halfway through the 4th extension now.

Mr. Singer: I don't think we are going to turn them down now.

Mr. McConnell: In two months, they will be back for another extension.

Connie Sardo: They probably will be.

Mr. McConnell: I just wanted to make sure these dates were correct.

Connie Sardo: Yes. They are.

Mr. Astorino: Ok.

Motion carried; 4-Ayes.

3. Planning Board Minutes of 9/17/08 – Planning Board Minutes of 9/17/08 for Planning Board Approval.

4.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 9/17/08.
Seconded by Mr. Kowal. Motion carried; 4-Ayes.

Correspondences:

Mr. Astorino: We received comments from the Conservation Board, dated 9/30/08 in regards to comments on the Draft Comprehensive Plan for the Board's reading pleasure.

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.

Barbara White: I think that it should be noted that Mrs. Webster offered the back property to Legion Hall, Mr. and Mrs. Fox, and the Jados Farm.

Mr. Astorino: Is there anyone else wishing to address any of the agenda items?

Paul Svizzero: This is in regards to the Webster Plaza application. On the plan, it states that they will be putting up a 50'x100' building which is 5,000 square feet. I just found out that it is a 2-story building. They would actually be putting up a 10,000 square-foot building not a 5,000 square foot building. The Town allows a 5,000 square foot building. What would the other 5,000 square feet be used for?

Mr. Astorino: It will be for a residence.

Zen Wojcik: The Town allows 5,000 square-foot gross floor, which is the footprint of the building. It meets the requirement of the code.

Paul Svizzero: In other words, it means you could go to 10 stories.

Mr. Astorino: No. There is a height requirement.

Paul Svizzero: They are applying for a 10,000 square-foot building.

Zen Wojcik: No. It is a 5,000 square-foot building footprint.

Paul Svizzero: I don't get it. The point is that there will be apartments there.

Mr. Astorino: No. There will be a residence there.

Paul Svizzero: It will be just one resident.

Mr. Astorino: Yes.

Paul Svizzero: It will be 5,000 square feet of one apartment.

Mr. Astorino: It is one single-family residence.

Paul Svizzero: You know that a 5,000 square-foot single-family residence will not happen.

Mr. Astorino: Then, he would be cited by the Town. That is what is allowed.

Paul Svizzero: What would stop him from coming back and putting in 5 apartments?

Mr. Astorino: The Town Code.

Paul Svizzero: I looked at the plan. It says 5,000 square feet.

Mr. Astorino: Exactly. That is why we have a code.

Paul Svizzero: Just as long, you have the height requirement of 35 feet of what is allowed and you couldn't put up a 10 story building.

Mr. Astorino: Yes. You can't put up a 10 story building.

Paul Svizzero: Ok. Thank you.

Mr. Singer: I am uncomfortable with this Schreibeis/Webster application. I need some more information. Zen, when they blacktop it, they will use salt. They will push all of the salt into the ditch. The ditch is going to the black dirt. Is it ok to send salt water into the black dirt?

Zen Wojcik: The only successful method of removing salt from the pavement is by vacuuming it. I think there was a report that I shared with the Planning Board on another application. We came to the conclusion after looking at other alternatives. The best way to deal with this is by vacuuming. This is a commercial site. The Fairgrounds project is a commercial site. Part of what they volunteered is that they will be vacuuming and sweeping their parking lot. The Planning Board wants to have a similar requirement for this commercial site. There are companies that do that.

Mr. Singer: This site has another problem. It is located in the Aquifer Overlay Protection District. All of this salt would go right into the Aquifer.

Zen Wojcik: A very good thing for the Board which you could do under SEQR is to make the requirement that the parking lot would have to be swept and vacuumed on a regular basis as part of the condition of approval.

Mr. Singer: Is there another product they should use instead of salt?

Zen Wojcik: We had an Environmental Consultant that had done a project in the Town of Goshen. She shared it with me. She had done an exhaustive study by looking at different alternatives. The best solution was vacuuming and sweeping.

Mr. Singer: Where would you sweep it?

Mr. Astorino: It sucks it up.

Zen Wojcik: There is a machine that sucks the salt up and then disposes of it.

Mr. Astorino: You have more things happening on Pulaski Highway then you would have happen in a small parking lot.

Mr. Kowal: The length of Pulaski Highway is on the black dirt.

Mr. Astorino: Exactly. I think there is a bigger issue there if you are worried about the aquifer over there for the salt.

Zen Wojcik: Mr. Chairman, Mr. Singer is on to something here. If you do it at every chance that you get, it would make a difference in a short period of time. If you don't do anything at all, it would make no difference.

Mr. Astorino: When you are talking to the County, maybe you should have them not put salt on Pulaski Highway anymore.

Zen Wojcik: I think that is a completely different issue.

Mr. Astorino: Does the County salt Pulaski Highway?

Mr. Kowal: Yes. They had done that today.

Mr. Astorino: Then, it is an issue. Mr. Singer do you have anything further? We could discuss this at a work session. If there is anyone else wishing to address any agenda items, please rise and state your name for the record. Let the record show no further public comment.

Mr. McConnell makes a motion to adjourn the October 1, 2008 Planning Board meeting.

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