

TOWN OF WARWICK PLANNING BOARD

November 4, 2009

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
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, November 4, 2009 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

Review of Submitted Maps:

David Stanhewicz and Robert Newsom

Application for Sketch Plat Review of a proposed Lot Line Change, situated on tax parcels S 24 B 1 L 42.25, 42.26, & 42.27; parcels located on the southwestern side of Walling Road 1300 feet southwest of Newport Bridge Road, in the RU zone, of the Town of Warwick.

Representing the applicant: William Youngblood, PLS. David Stanhewicz, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Record Owners (Note 5) should agree with deeds. Provide sufficient room in Approval Block for signatures.
4. The parcel is transected by the boundary of the RU and CO Zoning Districts. Indicate the boundary on the re-subdivision plan.
5. Show that each proposed lot will conform to the square rule.
6. The parcel contains NY State jurisdictional wetlands. Include this note on the plan: "Any proposed construction, grading, filling, excavating, clearing or other regulated activity within the State freshwater wetland or adjacent 100 feet requires a permit from the NYS Department of Environmental Conservation under Article 24 of the Environmental Conservation law (Freshwater Wetlands Act) prior to the commencement of work."
7. Provide the deed and the recording information on the map for the lot line change.
8. Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, and Radon Reduction Notes.
9. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

David Stanhewicz and Robert Newsom – None submitted.

The following comment submitted by the ARB, dated:

David Stanhewicz and Robert Newsom – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: This is an Unlisted Action. The applicant has provided us with a short EAF. There is no construction proposed. This application is for a simple lot line change. The Planning Board could go ahead and declare itself Lead Agency.

Mr. Singer makes a motion for 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: Stanhewicz and Newsom Re-Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by David Stanhewicz and Robert Newsom for a ± 136.15 acre parcel of land located at Walling Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 9/29/09 was submitted at the time of application, and

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

Whereas, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed, forwarded to the 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 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.

William Youngblood: This project consists of 3 existing tax parcels within the Town. Currently, there are two families that own one of the common lots which is vacant and is the lower lot which is within the Aquifer District down at the lower portion which we call it lot # 42.27. The other families own the 2 remaining lots which front on Walling Road. What the two families want to do, they want to combine the one lot, which is currently owned by both families. They want to combine that property into 2 existing lots for estate purposes. There is no construction proposed at this time or in the near future. What we are trying to do is to take 3 lots and turn them into 2 lots. These 3 lots are part of a subdivision that was filed back in 1986, which was part of a 7-lot subdivision. Mr. Stanhewicz and Mr. Newsom were partners in that subdivision at that time. At the time, there was a lot down at the bottom left open. I will have Mr. Stanhewicz explain the reason for that.

David Stanhewicz: When we bought the original 150 acres as a partnership, we decided to divide it into acreage equally, 36 a piece that we wanted for ourselves to do some development on it. We couldn't decide what to do with the remaining of approximately 80 acres. It was mostly wetland and wooded land. We decided to keep it as a joint parcel for recreation purposes. We put in a R.O.W. out to Walling Road because at that time in 1985 when we did the subdivision, we were considering on donating the parcel to the Audubon Society. It is not a developable piece. What we had done was share the taxes and the maintenance on the property in terms of trails and walking down to the creek as a recreational piece since 1985.

William Youngblood: That gives you the history of it. What we are trying to do is combine everything together into 2 lots, which would be larger. We are trying to divide the lot that is currently owned jointly by the 2 families as even as possible.

Comment #3: Record Owners (Note 5) should agree with deeds. Provide sufficient room in Approval Block for signatures.

William Youngblood: No problem.

Comment #4: The parcel is transected by the boundary of the RU and CO Zoning Districts. Indicate the boundary on the re-subdivision plan.

William Youngblood: No problem.

Comment #5: Show that each proposed lot will conform to the square rule.

William Youngblood: No problem.

Comment #6: The parcel contains NY State jurisdictional wetlands. Include this note on the plan: "Any proposed construction, grading, filling, excavating, clearing or other regulated activity within the State freshwater wetland or adjacent 100 feet requires a permit from the NYS Department of Environmental Conservation under Article 24 of the Environmental Conservation law (Freshwater Wetlands Act) prior to the commencement of work."

William Youngblood: We could add that note.

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

William Youngblood: I would like to get some clarity on that.

Mr. Bollenbach: We will need the deeds. The deeds will be recorded prior to the filing of the subdivision map. There will be deeds that correspond with the subdivision map.

William Youngblood: Ok. The deeds that you are referring to, do you mean the new deeds for each one of the lots?

Mr. Bollenbach: Correct.

William Youngblood: Typically, when we would file a deed, we would reference the filed map.

Mr. Bollenbach: No. You would use the description. You could say to be filed or you could reference it.

William Youngblood: But, to be filed. I wouldn't have any filing data to put in there.

Mr. Bollenbach: To be filed. It was approved by the Planning Board on such a date to be filed.

William Youngblood: Fine. Ok.

Comment #8: Provide the declaration and the recording information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, and Radon Reduction Notes.

William Youngblood: Ok. Typically, the attorney takes care of that.

Mr. Bollenbach: Yes.

William Youngblood: I was having trouble with some of the radon notes.

Mr. Astorino: We have standard notes.

William Youngblood: Could you give me those standard notes.

Mr. Astorino: You could talk to Zen about that.

William Youngblood: Ok. Not a problem.

Mr. Bollenbach: Zen, are those notes already placed on the plan?

William Youngblood: The Agricultural notes and the Aquifer notes are on the plans. I just don't have the radon notes on the plan yet.

Zen Wojcik: There is a copy of those notes in your application packet.

William Youngblood: Ok.

Comment #9: Pay outstanding review fees.

William Youngblood: Not a problem.

Mr. Astorino: Do any Board members or Professionals have any comments? Does the applicant request to waive the public hearing?

William Youngblood: Yes. We request to waive the public hearing.

Mr. Singer makes a motion to waive the Public Hearing.

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

Mr. Astorino: Connie, did we receive any comments from the Conservation Board or the ARB this evening for anything?

Connie Sardo: No.

Mr. Astorino: Thank you.

Mr. Showalter makes a motion for the Negative Declaration.

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

617.12(b)

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

Name of Action: Stanhewicz & Newsom Re-Subdivision

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed re-subdivision of three existing lots to create two lots, 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 9/29/09, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

Mr. McConnell: I was trying to figure out the Resolution of Establishing Lead Agency. It references the need to file an Ag Data Statement and forwarded to the owners of farm operations. It is then to be considered by the Planning Board. That suggests to me that would be something that hasn't happened. Ted is telling me that it has happened.

Mr. Fink: I believe that has been done.

Mr. McConnell: It needs to be confirmed.

Mr. Bollenbach: Ted, do you want to take a look in the file?

Connie Sardo: I could show it to you.

Mr. Astorino: It is a standard procedure that is normally done.

Mr. McConnell: I know it is standard procedure. But, the language here says that it needs to be done. We need to cross the t's and dot the i's.

Connie Sardo: We have it in the file.

Mr. Astorino: Ok. We have it.

Mr. McConnell: Do we consider it done?

Mr. Astorino: Ted, do you consider it done?

Mr. Fink: Yes.

Mr. Astorino: Thank you.

Mr. Bollenbach: If there are any signatures that are not on the application that should be there, then they would have to come in and notarize the application.

William Youngblood: Mr. Newsom and Mrs. Stanhewicz were looking to sign it and get it notarized. Both of the names appear on the two deeds.

Mr. Bollenbach: Ok.

Mr. Kowal makes a motion on the David Stanhewicz and Robert Newsom application, granting final approval for a proposed Lot line Change, situated on tax parcels S 24 B 1 L 42.25, 42.26, and 42.27; parcels located on the southwestern side of Balling Road 1300 feet southwest of Newport Bridge Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on November 4, 2009. Approval is granted subject to the following conditions:

1. Record Owners (Note 5) should agree with deeds. Provide sufficient room in Approval Block for signatures.
2. The parcel is transected by the boundary of the RU and CO Zoning Districts. Indicate the boundary on the re-subdivision plan.
3. Show that each proposed lot will conform to the square rule.
4. The parcel contains NY State jurisdictional wetlands. Include this note on the plan: "Any proposed construction, grading, filling, excavating, clearing or other regulated activity within the State freshwater wetland or adjacent 100 feet requires a permit from the NYS Department of Environmental Conservation under Article 24 of the Environmental Conservation law (Freshwater Wetlands Act) prior to the commencement of work."
5. Provide the Deed and the Recording Information on the map for the lot line change.
6. Provide the Declaration and the Recording Information on the plan for Agricultural Protection Notes, Aquifer Protection Overlay Notes, and Radon Reduction Notes.
7. Pay Outstanding Review Fees.

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

William Youngblood: Thank you.

Warwick Views, LLC.

Application for Sketch Plat Review of a proposed 49-Lot + 4-Affordable Homes subdivision, situated on tax parcels S 27 B 1 L 41.131, L 47, and L 48.1; parcels located on the northern side of Blooms Corner Road 2000 feet west of County Route #1, in the RU zone, of the Town of Warwick. Planning Board adopted Final Scoping Document on 12/6/06. Previously discussed at the 9/2/09 Planning Board meeting. Planning Board to discuss "Revised" DEIS completeness.

Representing the applicant: Kirk Rother, Engineer. John Cappella, Attorney. Kristen O'Donnell from the Turner Miller Group.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 2. Applicant to discuss project.
- YIELD PLAN (DATED 2/20/04, LAST REV 9/28/09)**
3. It was noted in previous comments that proposed absorption fields for 31 of 49 lots were in soils identified as unsuitable by the Town Code. A revised letter report, prepared in accordance with the Planning Board's "poor soil" protocol and responding to previous comments, has been reviewed by the Town Engineer's staff. In summary, the report claims that proposed absorption field locations within mapped unsuitable soils are either situated within inclusions of suitable soils (as evidenced by deep soil test pits) or mapped soil boundaries are incorrect. The Town Engineer concurs with the applicant's assertions and recommends that the Board accept the report.
 4. If the Board accepts the letter report, the applicant shall provide a note on the Yield Plan, per the "poor soil" protocol, indicating the specific variation of soil type contrary to the mapping, in the judgment of the responsible engineer, as stated in the letter report. A notation should also be made of shallow septic systems proposed to accommodate shallow depth to bedrock.

CLUSTER PLAN (DATED 3/28/06, LAST REV 9/28/09)

5. The proposed subdivision exceeds 49 lots. The provisions of §137-7B(3)(b) and §137-25G apply. All the applicant's proposed design alternates utilize a community water supply. Alternative V-5 is included in the DEIS in response to the central sewer requirement of the Code. Board and applicant to discuss.
6. A community water supply is proposed. Applicant to show schematic location of waterworks and water tank, including preliminary sizing of the tank.
7. Open space is labeled "to be owned by HOA". Applicant to discuss potential uses of open space.

TECHNICAL COMMENTS:

8. Include a Key Map showing the locations of match lines and identifying Subdivision Plans.
9. The linetype identified in the Legend as a proposed 6" D.I.P. water main is also used for service connections to houses. (Service connections will typically be smaller diameter pipes.) Use a unique linetype for service connections and identify in the Legend.
10. In the Aquifer Protection Notes, revise the Aquifer Impact Assessment statement to record that an Aquifer Impact Assessment was prepared for this project and is included in Appendix G of the Environmental Impact Assessment. Label the wells consistent with Appendix G and include their DEC well number from the Water Well Completion Report. Show the locations of wells #1, #3 and #4.

BEFORE FINAL APPROVAL

11. For proposed Affordable Housing, provide the information required by §164-46J(100).

12. Provide a stand-alone karst mitigation plan, prepared, signed and sealed by a NYSPE.

The following comment submitted by the Conservation Board:

Warwick Views, LLC. – None submitted.

The following comment submitted by the ARB, dated 11/4/09:

Warwick Views, LLC. – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: We had asked the applicant to make some changes to the DEIS that they had submitted. We had a second go around on the preliminary DEIS. The applicant submitted a package to us back in September. Zen and I had taken a look at it. We narrowed it down to 2 issues that were discussed at the work session on Monday night. One was the issue of the geology of the site. The second issue had to do with a statement in the DEIS regarding the State and Federal wetlands. The maps that had been provided as part of the DEIS clearly shows the State wetlands and the certification by the State. But, often times the Federal wetland boundaries and the State wetland boundaries do not coincide 100%. Kirk was confident that based upon Roger Torgeson's delineation of the Federal wetlands on the property and of the topography; there was a clear wetland line that encompasses both the State and Federal wetlands. His report was supposed to be provided to us so that it could be incorporated into the DEIS. Unfortunately, that report wasn't available or Roger Torgeson was not available. I am not sure on the full story about that. Kirk, could you fill us in on the status of that?

Kirk Rother: We were going to try to provide a copy of Mr. Torgeson's data sheets. We spoke about that at the work session. Basically, there are so many flags that he writes down on what it is that he had found at that location regarding the vegetation, hydra-soils, etc... In the past week, we kept missing one another. Mr. Torgeson was out for a few days last week. He called me back. I called him back. It is Wednesday night. I do not have them yet. They may be in my office tomorrow morning.

Mr. Bollenbach: We will need that information.

Mr. Fink: I have a question. He has the data sheets. Each of those would correspond with a point along the wetland boundary. Has that point ever been surveyed?

Kirk Rother: Yes. He reflagged the survey.

Mr. Fink: Ok. So, the information does exist.

Kirk Rother: The information does exist. We will provide it. I was speaking to Ted tonight before the meeting started. In the last 6 weeks, we have been submitting this piece to fill in this and another piece to fill in another gap. I believe from my understanding of the process is that once the Board deems the document complete, we would still have to prepare one polished document that would be acceptable to circulate to all the other agencies. Ted and Zen, you would want to review that to make sure it is a full document.

Mr. Fink: The DEIS has to have everything in it.

Kirk Rother: These sheets that exists, they are not going to affect the extent of the wetlands at all.

Mr. Astorino: Are you confident that Torgeson's wetlands are the same?

John Cappella: This DEIS is for purposes of completeness that commence the public review. What we will do is put that in. That will be Torgeson's position. The document would be sent to the DEC. They will be provided. This is not the end of the process. This is a public review. Your consultants could comment on those data sheets. We would have to respond in the FEIS. The DEC could comment on the extent of it. I think we had sent a copy to the ACOE. They could comment on it. What we are trying to do is get all of the input. They might say they don't agree. Then, it would be our responsibility in the FEIS to respond to that. We are hoping that they say they do agree. We are not here arguing. We are saying that this is our position.

Mr. Astorino: Ted, how comfortable are you with this?

Mr. Fink: I think from the standpoint of this project, the impacts are all related to the road. Either one way or another, the project doesn't happen or the road doesn't get built. There will be impacts regardless. There would be no other way to get into the site to be able to develop most of the lots that had been proposed. Like John had said, all of the other agencies would get a shot at this. If the ACOE takes a look at this and says no way, it will not happen.

Mr. Astorino: It could be handled in the FEIS at that point.

Mr. Fink: Yes.

Mr. Astorino: What does the Board feel?

Mr. Fink: I just want to let you know that I had not prepared any document for tonight. Typically, there is a Notice of Completion of DEIS and a Notice of a Public Hearing that is prepared. That Notice is filed with the DEIS. Since they have to make some final corrections to the document, maybe what we could do is have that document prepared to accompany the DEIS assuming that everything is put into the document. Then, we could file that with all the involved and interested agencies.

Mr. Astorino: That would be on the next Planning Board meeting.

Mr. Fink: Yes.

Mr. Astorino: Let us do that. We will put Warwick Views on the 11/18/09 Planning Board meeting regarding DEIS completeness.

Mr. Bollenbach: Ted, did you receive additional correspondence from either the Conservation Board or the ARB?

Mr. Fink: Yes. We received a comment from the ARB, dated 9/14/09. I don't believe we had ever received a copy of these ARB comments prior to tonight. The ARB comment, dated 9/14/09 is stated as follows:

The Architectural Review Board has reviewed the DEIS, and still make the following suggestions-

- 1) The new layout is much more sensitive to the overall topography. The long-winding road seems to be a tremendous intrusion into the landscape, and does not truly unite and create a community between the two portions of the subdivision. In this case, it might be better to place a cul-de-sac in the small grouping of houses adjacent to Blooms Corners Road. And bring the entrance to the larger portion of the development in along the property line between Warwick Views, Luft Farm and the homes on Blooms Corners Road (the southern most portion of the property) There is adequate land set aside at that point for a road. It would save a considerable amount of paving for roads across the wetlands, would still line up with the development and meet with the access road easement to the Luft development.*
- 2) No matter where the new road is proposed, given the development in the area, it will become important to re-work the intersection of Waterbury Road with Blooms Corners Road for safety as the increased traffic will only make this road considerably more danger at the intersection.*

Mr. Astorino: That would pertain to the traffic study. We would have to get the information from the traffic study.

Mr. Fink: Yes.

Mr. Astorino: As far as the road layout, we will work that out as this application goes through the planning process.

Kirk Rother: I had seen those ARB comments at the work session.

Mr. Fink: Ok.

John Cappella: Those are comments that should be submitted as part of the FEIS.

Mr. Bollenbach: Those ARB comments just came in.

Mr. Astorino: Those ARB comments are now on the record. We will go through those comments as the project moves along.

Kirk Rother: It is a good idea. Regarding the cul-de-sac and the other road, we only have 50 feet to put a road down a steep terrain. It would not work. We would not be able to grade the road even at 14% and stay within our 50-foot strip.

Mr. Astorino: We will work through that as the process moves along. We will put Warwick Views on the 11/18/09 Planning Board meeting. You will get us Torgeson's report before that time.

Kirk Rother: Should we get this document 100% and get it to Ted and Zen before the 11/18/09 Planning Board meeting?

Mr. Astorino: Yes.

Mr. Bollenbach: Could you do that by then? Do you need more time?

John Cappella: We will submit the complete document and mark where the changes came to Ted and Zen. Once you say at the meeting the DEIS is complete, then we will distribute the complete DEIS document.

Connie Sardo: When you get to that point, please give me a call so we could coordinate that.

Kristen O'Donnell: Ok.

Mr. Fink: In terms of the public comment period, we would need to set a timeframe for the comment period and a public hearing on the DEIS at some point within that. We should start looking at the calendar for dates.

Mr. Astorino: Yes. That would be running into the New Year. We will see about that. We will list comments 2 through 12 for the record.

John Cappella: Thank you.

Comment #2: Applicant to discuss project.

YIELD PLAN (DATED 2/20/04, LAST REV 9/28/09)

Comment #3: It was noted in previous comments that proposed absorption fields for 31 of 49 lots were in soils identified as unsuitable by the Town Code. A revised letter report, prepared in accordance with the Planning Board's "poor soil" protocol and responding to previous comments, has been reviewed by the Town Engineer's staff. In summary, the report claims that proposed absorption field locations within mapped unsuitable soils are either situated within inclusions of suitable soils (as evidenced by deep soil test pits) or mapped soil boundaries are incorrect. The Town Engineer concurs with the applicant's assertions and recommends that the Board accept the report.

Comment #4: If the Board accepts the letter report, the applicant shall provide a note on the Yield Plan, per the "poor soil" protocol, indicating the specific variation of soil type contrary to the mapping, in the judgment of the responsible engineer, as stated in the letter report. A notation should also be made of shallow septic systems proposed to accommodate shallow depth to bedrock.

CLUSTER PLAN (DATED 3/28/06, LAST REV 9/28/09)

Comment #5: The proposed subdivision exceeds 49 lots. The provisions of §137-7B(3)(b) and §137-25G apply. All the applicant's proposed design alternates utilize a community water supply. Alternative V-5 is included in the DEIS in response to the central sewer requirement of the Code. Board and applicant to discuss.

Comment #6: A community water supply is proposed. Applicant to show schematic location of waterworks and water tank, including preliminary sizing of the tank.

Comment #7: Open space is labeled "to be owned by HOA". Applicant to discuss potential uses of open space.

TECHNICAL COMMENTS:

Comment #8: Include a Key Map showing the locations of match lines and identifying Subdivision Plans.

Comment #9: The linetype identified in the Legend as a proposed 6" D.I.P. water main is also used for service connections to houses. (Service connections will typically be smaller diameter pipes.) Use a unique linetype for service connections and identify in the Legend.

Comment #10: In the Aquifer Protection Notes, revise the Aquifer Impact Assessment statement to record that an Aquifer Impact Assessment was prepared for this project and is included in Appendix G of the Environmental Impact Assessment. Label the wells consistent with Appendix G and include their DEC well number from the Water Well Completion Report. Show the locations of wells #1, #3 and #4.

BEFORE FINAL APPROVAL

Comment #11: For proposed Affordable Housing, provide the information required by §164-46J(100).

Comment #12: Provide a stand-alone karst mitigation plan, prepared, signed and sealed by a NYSPE.

Castle Tavern

Application for Site Plan Approval and Special Use Permit for work within “A Designated Protection Area” of Greenwood Lake and satisfaction of outstanding violations, situated on tax parcel S 76 B 1 L 33.12; project located on the left side of Castle Court (8 Castle Court) 1-foot of Greenwood Lake, in the SM zone, of the Town of Warwick. Previously discussed at the 10/7/09 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer. Mike Calandra, Applicant. Mr. Alan Lipman, Attorney.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Applicant has been issued a series of Violations by the Building Department. Resolution of all these Violations is by application to the Planning Board. The application should address these items:
 - Complaint #20090267 – Illegal Signs
 - Complaint #20090265 – Work within Designated Protection Area of Greenwood Lake without PB approval
 - Complaint #20090264 – Building without permit (need site plan approval)
 - Complaint #20090263 – No C/O or C/C (interior renovations)
 - Complaint #20090266 – Fire/Safety
 - Stop Work Order for grading & storage of boats in area of septic field (10/5/09)
 - Stop Work Order for construction of new kitchen addition and decking (10/5/09).
4. A septic dye test was performed at the parcel. Engineer to provide letter report, per the Town’s Septic System Dye-Test Procedure. Delineate the actual area of the septic field on the parcel.
5. The portable canopy is situated on a patio/deck alleged to have been built April 2006. A portion of the patio/deck is on the landside of the bulkhead, a portion is supported on piers in the lake. Patio/deck was constructed in the Designated Protection Area of Greenwood Lake without Planning Board approval. Provide structural and construction details for the Building Department record. Provide a copy of the current NYSDEC/USACOE permit for the patio/deck.
6. The Town Clerk has received a “30-day Advance Notice” of a State Liquor Authority Alteration Application Notice. Applicant and Board to discuss. Provide a copy of the current NYS Liquor Authority Permit and approved plan.
7. Applicant to discuss location of 66 required parking stalls for restaurant/tavern use. Some parking is situated on a lot not part of this application, others on a lot not owned by the applicant. Applicant to discuss. Show location of and provide a calculation for marina parking. Coordinate with Greenwood Lake Fire District for size and location of Fire Lane and show on plan.
8. Proposed site lighting utilizes floodlight-type fixtures mounted on the restaurant and cottage and pole-mounted luminaires in parking lot areas. Floodlight-type fixtures require shielding to meet Code requirements; revise detail and design. Pole-mounted fixtures are shown as being set 24-feet above the ground where 16-feet is the maximum. Not all proposed parking areas are provided with lighting. Applicant to discuss.

Engineer to provide lighting design back-up calculations and iso-footcandle diagram verification.

9. Eating and drinking establishments are a permitted use in the Traditional Neighborhood Overlay (TN-O) District. According to the Town's TN-O map, the applicant's parcel is located in the District. Applicant to discuss conformance with The Town's Design Guidelines, per §164-46J(53).
10. The Water Use Calculation placed on the plan shows a purported hydraulic load (septic discharge) of 3,822 gpd. The last SPDES permit for the property (January 1, 2004) limits the discharge to 2000 gpd, which is used in the Sewer Calculations placed on the plan. Applicant to discuss.
11. Show the approximate limit of the Town's Designated Protection Area (100-feet from the shore of Greenwood Lake).

The following comment submitted by the Conservation Board:

Castle Tavern – None submitted.

The following comment submitted by the ARB:

Castle Tavern – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has already declared itself Lead Agency on this application. We are in the process of reviewing the application and the SEQR issues.

Mr. Astorino: Zen, are any of these comments the same from the last time? Should we go through the comments one at a time?

Zen Wojcik: Comment #3 is just there to keep everyone informed on why the application is before the Board. Stop Work Orders has been added to that. Comment #4 is left over from the last time out. We still haven't received the final report on that.

Mr. Astorino: We will list comments 2 and 3 for the record. We will start with comment #4.

Comment #2: Applicant to discuss project.

Comment #3: Applicant has been issued a series of Violations by the Building Department. Resolution of all these Violations is by application to the Planning Board. The application should address these items:

- Complaint #20090267 – Illegal Signs
- Complaint #20090265 – Work within Designated Protection Area of Greenwood Lake without PB approval
- Complaint #20090264 – Building without permit (need site plan approval)
- Complaint #20090263 – No C/O or C/C (interior renovations)
- Complaint #20090266 – Fire/Safety
- Stop Work Order for grading & storage of boats in area of septic field (10/5/09)
- Stop Work Order for construction of new kitchen addition and decking (10/5/09).

Comment #4: A septic dye test was performed at the parcel. Engineer to provide letter report, per the Town's Septic System Dye-Test Procedure. Delineate the actual area of the septic field on the parcel.

Kirk Rother: Will do.

Comment #5: The portable canopy is situated on a patio/deck alleged to have been built April 2006. A portion of the patio/deck is on the landside of the bulkhead, a portion is supported on piers in the lake. Patio/deck was constructed in the Designated Protection Area of Greenwood Lake without Planning Board approval. Provide structural and construction details for the Building Department record. Provide a copy of the current NYSDEC/USACOE permit for the patio/deck.

Mr. Astorino: Have you had any luck on that yet?

Kirk Rother: Yes. Yesterday, I received drawings from Mr. Calandra's architect, Greg Anderson. I have 3-copies here with me. These drawings deal with the structure of the deck.

Mr. Lipman: Did he give you any report indicating that it is safe?

Mr. Bollenbach: Could an architect do that?

Kirk Rother: Yes. They could do structure stuff.

Mr. Bollenbach: I am just asking. I am just wondering if he has done that and what the report was.

Kirk Rother: He had found that some of the main joist which is a 2x10 right now, he would want Mr. Calandra to put a 2x8 up against it.

Mr. Bollenbach: That work is not to be done now. Is that understood?

Kirk Rother: Understood.

Mr. Bollenbach: Ok.

Kirk Rother: I don't even know if Mike knew that he had to do that work yet.

Mr. Astorino: What about the permits for this?

Kirk Rother: Mr. Calandra has filed an application with the ACOE to get the permit in his name.

Zen Wojcik: That was for the marina. That application in which you sent a copy of that to me today was to transfer the permit for the marina. We need the permit for the deck.

Mr. Astorino: We talked about that at the work session.

Zen Wojcik: Yes.

Mr. Lipman: My recollection is that you had said the DEC/ACOE was not interested in that construction. You will get something in writing about that.

Mr. Astorino: Ok. Zen, you will check that out.

Mr. Bollenbach: Zen, maybe you could contact them.

Zen Wojcik: Yes. We will find out.

Comment #6: The Town Clerk has received a "30-day Advance Notice" of a State Liquor Authority Alteration Application Notice. Applicant and Board to discuss. Provide a copy of the current NYS Liquor Authority Permit and approved plan.

Mr. Astorino: John, is that what we have here?

Mr. Bollenbach: That is the alteration for authorization of the facilities.

Kirk Rother: Yes. We emailed to Zen and Connie the actual existing permit. The Board is in possession of that.

Mr. Bollenbach: Was that submitted with the plans?

Connie Sardo: Kirk, just to let you know that I had never received that email. I know that Zen had received that email. He printed off copies for me.

Mr. Astorino: Do we also have plans?

Zen Wojcik: We have had a very strange day today with emails. Mr. Rother had not received some of my emails. I received some of Kirk's emails. Connie did not get some emails. I don't know what was going on today.

Mr. Astorino: Do we have the plans?

Kirk Rother: Mr. Calandra does not have a seating plan. Apparently, if there is a seating plan, it would only be of the bar not the restaurant.

Mike Calandra: When I spoke to Andrea Sharron from SLA, she had said that it was only of the bar itself. I told her that I would move the bar. She told me to send this form in and wait 30 days. After that, I would submit a new application with the new seating plan of the bar itself.

Mr. Astorino: Will you provide that information to us?

Mike Calandra: Yes. But, I will have to wait the 30 days.

Mr. Astorino: I understand that.

Mr. Lipman: There is an existing plan for the bar with the existing permit.

Mr. Astorino: But, the bar has since moved.

Mr. Lipman: Yes. But, you had asked if we have the plan for the permit that exists. The answer is no that there is such a plan at the SLA.

Mr. McConnell: You haven't requested a copy of that yet?

Mike Calandra: I could see if they could fax it to me.

Mr. Bollenbach: The Planning Board has requested that for some time now.

Mr. Astorino: But, that was for the old one.

Mr. McConnell: We would like to see the old one.

Mr. Bollenbach: Yes.

Mr. Astorino: I am just clarifying that.

Mr. Lipman: We are trying to be forthright with you. There will be a plan for the newly designed bar.

Mr. Astorino: We will want to see that also.

Mr. Lipman: You will see that.

Mr. Astorino: Thank you.

Zen Wojcik: Mr. Chairman, before we move on, there was a document that was provided to the Planning Board that Mr. Bollenbach had asked me to send it out to everybody. It was a requirement of Mr. Calandra to send to the Town, which was an Alteration Application Notice Form 30-Day Advance Notice. Mr. Bollenbach had highlighted some items on the form for discussion.

Mr. Bollenbach: Yes. I only see item #14 highlighted. There are several other items.

Mr. Lipman: Is it on that or on these comments?

Mr. Bollenbach: No. It is on the application for permission to make alterations to the State Liquor Authority (SLA). On the application, item #10, regarding interior and exterior alterations, if interior, will the occupancy change? It is stated on the application as no. That is something for the Board to make note of. It would be important to look at those prior plans on what the capacity was.

Mr. Lipman: John, I think the plan was just for the bar.

Mr. Bollenbach: Let us see what the plan is. This is for the Board to keep this in mind. The occupancy is not to be increased. That is what the application states. Item #12 on the application, it asks if a building permit is required for this type of alteration. It is stated yes on the application for electric and plumbing. I believe there are additional permits. I believe the SLA should be apprised of those additional permits that are being required.

Mr. Lipman: What are they?

Mr. Bollenbach: We will provide a list of those. You have Notices of Violations. There was construction done without a permit. We have Stop Work Orders. You have other agency approvals, which are the DEC, and the ACOE.

Mr. Lipman: Would it be for these changes?

Mr. Bollenbach: Yes. There is the patio. That is what we are talking about.

Mr. Lipman: We are talking about a bar.

Mr. Bollenbach: Construction. It is the operation. You indicated patio and deck. That is indicated in item #11 on the application. It states if yes, which outdoor areas are expanded. You have patio and deck checked off.

Mr. Lipman: You have me at a disadvantage. I am seeing this application for the first time.

Mr. Bollenbach: I am just highlighting these items for the Board to consider. The Town Board will be responding to this. Item #14 on the application asks if there are any known limitations by the County or Municipality for this type of alteration? The answer is checked off as no. We do have a Zoning Code that has many restrictions concerning this. That should be outlined as well. If the Board has any comments on that, please review it and get back to me at your earliest convenience.

Mr. McConnell: This says a permit has been applied for. Is that accurate?

Mr. Bollenbach: Yes. The permit has been applied for and there is a notice of requirements.

Mr. McConnell: No. This is in conjunction with item #12. It states, is a building permit required for this type of alteration? It is stated, yes. If so, has the permit been applied for? Is that also a yes?

Mr. Bollenbach: For example, there was a permit applied for the wood stove. But, no permit was issued.

Mr. McConnell: Ok.

Mr. Bollenbach: It is in various stages. I will get in touch with the Building Department. They will go through it categorically.

Mr. McConnell: Wouldn't it be good if we could just turn the hands of time back to a place where we could start from square one?

Mr. Bollenbach: Yes. This could have been done at the end of April of this past year when we had met with this applicant.

Mr. Lipman: John, am I off base or is this an application for a change to a bar?

Mr. Bollenbach: I can't tell. It is for alterations. You have indicated on here that it is for alterations/changes to patios and decks.

Mike Calandra: No. This is just for the bar.

Mr. Bollenbach: I am just going by the information that has been provided.

Mr. Lipman: He included the patio and deck because the bar is sitting half in and half out. It sits out half on the deck and half in the building. Is that right?

Mike Calandra: Correct.

Mr. Lipman: This isn't for the operation. This is just for the physical change in the bar and the relocation of it.

Mr. Bollenbach: I will get the information for the Board. They could review it at the work session.

Mr. Astorino: You are going to submit the old plan and the new plan? That will give us a guideline to go by.

Mr. Lipman: Who did you say would respond to this?

Mr. Bollenbach: It was addressed to the Town Board. It was received at the Town Clerk's office on October 29, 2009.

Mr. Lipman: Would the Town Board be responding to this?

Mr. Bollenbach: Yes. Any liquor authority continuing permits have to be approved by the Town Board. This Notice was provided to them with an opportunity to respond. That is with all operations that serve alcohol or have licenses with the SLA in the Town.

Comment #7: Applicant to discuss location of 66 required parking stalls for restaurant/tavern use. Some parking is situated on a lot not part of this application, others on a lot not owned by the applicant. Applicant to discuss. Show location of and provide a calculation for marina parking. Coordinate with Greenwood Lake Fire District for size and location of Fire Lane and show on plan.

Mr. Lipman: I am confused. In the first line of comment #7, the word required, is that required by what?

Zen Wojcik: The calculation shown on the plan. The applicant's engineer had prepared a calculation of parking. It is shown on the plan. It says 66 parking spaces.

Mr. Lipman: Is it for a calculation of the number of stalls that could be achieved?

Zen Wojcik: You will need to ask Mr. Rother about that.

Mr. Lipman: Kirk, what had we calculated?

Kirk Rother: We calculated 66 existing, not required.

Mr. Lipman: That is different. It is 66 existing stalls.

Mr. Bollenbach: I think there might also be some that are proposed.

Kirk Rother: Yes.

Mr. Astorino: We talked about that at the work session. We talked about the other side over there where we weren't sure if that was the applicant's property.

Mr. Bollenbach: Also, up in the septic and leach area.

Kirk Rother: I put the parking where we spoke about it at the site visit.

Mr. Lipman: The word required is not an appropriate word. It is existing and proposed.

Mr. Bollenbach: Yes. That sounds good. Zen, do you have that?

Zen Wojcik: Yes.

Mr. Lipman: Now, let us discuss the second part of comment #7. It states to show location and provide calculation for marina parking. What do you mean by a calculation for it?

Zen Wojcik: Mr. Rother has provided a calculation for the restaurant/tavern part of it.

Mr. Lipman: He calculated how many stalls we could get on the site. It was not by any formula contained in the Zoning Ordinance. I hope.

Zen Wojcik: Part of the calculation is for the food and beverage eating and drinking places. 66 places are existing. There is also a marina in operation over there. I believe those people drive to the marina. Where would they park? How many spaces would be needed?

Kirk Rother: Should I just make it as a food and beverage eating and drinking places and marina.

Zen Wojcik: I don't know if that would be suitable to the Board. It seems like you are changing the definition as you wish. We have a Code. It has a section in it on parking. You try to meet what is in the Code. That is the whole point in being here.

Mr. Lipman: I don't think it is for this application. This is a non-conforming use.

Zen Wojcik: A non-conforming use including the parking.

Mr. Lipman: The whole thing is non-conforming.

Kirk Rother: When we were at the site visit, everybody had agreed to just show what we have.

Mr. Bollenbach: Kirk, that is a start. We are still looking for some delineation of the septic disposal area.

Kirk Rother: I understand that.

Mr. Bollenbach: Let us see what is there or what could be put there. See what we can get on the site. Then, we will go to the next stage to see if there is an expansion or a change in use which might require additional parking. We have a pre-existing use. But, what is pre-existing? How is the parking being accommodated now? Let us take a look at that. Then, we could go from there. That was what the purpose was in getting this information.

Mr. Lipman: Let us try to understand each other. I am not understanding with what you are saying right now. We just got past deciding that the word required was inappropriate. It was what is there and what is proposed. We will show you that. That when we visited the site was all that you were asking for. What are you introducing into the mix now? I don't understand that.

Mr. Bollenbach: This is something that has been stated from day one. I have given the Board copies of the requirements in the Code. If you have alterations or change to the facility or relocation of a non-conforming use to other portions of the property, if you are increasing the intensity of the use, it is legitimate for the Board to consider parking needs. If there were no expansion in the intensity of use, then perhaps what they have would be fine. But, if there is an expansion, that would be something for the Board to consider.

Mr. Astorino: That is yet to be determined. What we need to know at this point is how many spots you have? You have 66 spots.

Mr. Lipman: No. I think there are more.

Zen Wojcik: On the plan, it shows 67 spots. Some of the spots are not on the property that is owned by the applicant.

Mr. Lipman: Which piece?

Kirk Rother: They are on the Association piece.

Mr. Astorino: That is not broken off for the marina. That is why you are asking the question.

Zen Wojcik: There is an existing use out there. How many spots do we need for the existing use? Has this existing use been expanded since Mr. Calandra purchased it. I don't know at what point the Board wants to consider the expansion, if there was an expansion at all. We have seemed to determine that this patio/deck is a relatively recent addition to the building. Does the Board want to consider the condition before the patio/deck was put there? Does building the patio/deck take it over the line for a non-conforming use? Does it exceed what the Code allows?

Mr. Lipman: Maybe that is where you should be starting from.

Zen Wojcik: I think we are trying.

Mr. Lipman: No. You are not. You are causing us to do designs that are meaningless as far as I am concerned. You are not going to ask us to pave them or do anything like that. They exist. They have been there. They have been used long before this Regulation was enacted. I don't mind in taking that step. I don't want to take the next step unless you could demonstrate to me that we have in reality expanded a non-conforming use. I don't want to go there. I don't want to start doing more plans until that issue is resolved.

Zen Wojcik: In comment #5, the Board is asking you to provide a copy of the current DEC permit for the patio/deck. Just centering in on that, if there is a permit for that item which has been existing for a while, then we could talk to the Board about what is existing and what is not. When did things occur? When was there an expansion? Has there been an expansion? We don't know that yet. We have a feeling that there is.

Mr. Lipman: Then, why are we doing plans?

Zen Wojcik: This building has been around for a while. There are people in the Town Hall that remember it from years ago. I get stories that there was nothing downstairs. Now, there is everything downstairs. Mr. Lipman, at what point do you want to draw that line?

Mr. Lipman: I guess you would draw it when the Regulations went into effect.

Mr. Bollenbach: The Board had asked to show what parking is available or what is proposed.

Mr. Showalter: We are talking about parking. We need the parking information.

Mr. Astorino: What do you have out there existing? Show it on the map.

Kirk Rother: It is shown.

Mr. Astorino: Is there anything else proposed?

Kirk Rother: You have seen it. The whole place is parking.

Mr. Astorino: Regarding the septic system, the Board needs to know where the septic system is located. Right now, you don't know where it is. I believe you are guessing where it is.

Kirk Rother: We are guessing, but it is an educated guess.

Mr. Astorino: The bottom line is that we need to know some hard facts. Where is the septic? We all understand that you are not putting anymore parking out there. Whatever the number is, show it on the plan.

Mr. Lipman: There is another piece that we own. That piece is being used by some people for parking.

Mr. Astorino: Is that the Association piece?

Mr. Lipman: No. This is our piece.

Kirk Rother: I included that already.

Zen Wojcik: Mr. Chairman, that was the change from the last plan. It was shown on there. It wasn't included in the application. We haven't received a revised application. It has been changed on the plan. It is now included on the plan. It is about 15 or 16 parking spots.

Mr. Lipman: As a result of our site visit, it was suggested.

Mr. Astorino: Ok.

Zen Wojcik: We also don't know where the emergency access is.

Mr. Astorino: That is stated in comment #7. The applicant will have to coordinate with the Greenwood Lake Fire District.

Kirk Rother: I show it on the plan. I show a hatched area. It says a 24-foot wide lane should remain clear for emergency vehicle access.

Zen Wojcik: I apologize. I did not see that. Ok. Is that ok with the Greenwood Lake Fire District?

Mr. Astorino: A letter would have to be sent out to the Greenwood Lake Fire District.

Kirk Rother: Mr. McConnell commented at the workshop that it comes to a point, how could that be 24 feet wide?

Mr. McConnell: Right. Did you resolve that?

Kirk Rother: No. I haven't made any further submittals since the last time.

Mr. Astorino: We understand that. As far as the parking, let's iron that situation out. Show every spot that could potentially be laid out on this plan.

Mr. McConnell: Could you move spots on a property that doesn't belong to the applicant?

Mr. Astorino: That is an issue. We need to know.

Mr. Bollenbach: I have discussed at prior work sessions or prior meetings that the Town has provisions for shared parking. If there are any agreements, they should be provided.

Mr. McConnell: It would certainly require an agreement with the other owner.

Mr. Bollenbach: Absolutely.

Kirk Rother: We will either provide an agreement or I will remove it.

Mr. Astorino: We keep hearing this meeting after meeting and workshop after workshop. You have to get this stuff in. All we are doing up here is spinning our wheels.

Mr. Lipman: All of this is the first time that I am hearing it.

Mr. Astorino: The bottom line is that you have to get this stuff in.

Zen Wojcik: We keep running around the circles. We are not getting anywhere.

Mr. Astorino: I agree.

Comment #8: Proposed site lighting utilizes floodlight-type fixtures mounted on the restaurant and cottage and pole-mounted luminaires in parking lot areas. Floodlight-type fixtures require shielding to meet Code requirements; revise detail and design. Pole-mounted fixtures are shown as being set 24-feet above the ground where 16-feet is the maximum. Not all proposed parking areas are provided with lighting. Applicant to discuss. Engineer to provide lighting design back-up calculations and iso-footcandle diagram verification.

Kirk Rother: Ok.

Comment #9: Eating and drinking establishments are a permitted use in the Traditional Neighborhood Overlay (TN-O) District. According to the Town's TN-O map, the applicant's parcel is located in the District. Applicant to discuss conformance with The Town's Design Guidelines, per §164-46J(53).

Mr. Lipman: I purchased a copy of the Town's Design Guidelines. Today, when I had seen these comments, I went to look for them. I could not find them. It cost me \$25.00 for the Design Guidelines. I might have to spend another \$25.00.

Mr. Bollenbach: You could get the Design Guidelines on the Town's website.

Mr. Lipman: The author of this comment must have some idea on what you believe in respect to these Design Guidelines. What is it in your view that we should comply with?

Mr. Bollenbach: Once you have an opportunity to take a look at the Design Guidelines, you will see that there are additional things to be discussed like the location of the dumpster. If there is going to be additional parking installed, you might need some mitigation for drainage into the lake. That was specifically discussed on site. There are some additional things for example; the painting/color of the buildings. They would need to be earth tone colors. I believe they are. You could provide a confirmation of the reflectivity of the color that you currently have. There are landscaping requirements for any additions. These are items that could be discussed. Ted, do you have some other ones? These are just some general Design Guideline comments. There is also the issue of noise. What will be generated from the dock, deck, and patio area? We do have noise standards. There are new noise standards that have been adopted. These are items to consider.

Mr. Astorino: I am sure our secretary could get you a copy of the Design Guidelines.

Mr. Bollenbach: The Design Guidelines are on the Town's website.

Mr. McConnell: Mr. Chairman, it seems like there is an undercurrent that at least some of us on the Board believe there is an increased use or an alteration that would require certain permits, etc... If I am hearing correctly, the applicant's attorney doesn't agree with that.

Mr. Lipman: I did not say that.

Mr. McConnell: You didn't?

Mr. Lipman: No. I was talking about the Design Guidelines.

Mr. McConnell: Mr. Lipman, I am talking about before that.

Mr. Lipman: Ok.

Mr. McConnell: It seems to me that is one of the underlying causes of our spinning of our wheels, etc... We keep approaching it as if there has been an increase although we have not yet received all of the information for us to determine that. They keep resisting that there has been. Maybe our Professionals could sit down and figure out a 5-step program so we could resolve that issue finally. Then, it would seem like everything else would flow from that.

Mr. Lipman: That is exactly what I had suggested.

Mr. McConnell: Why are you disagreeing with me?

Mr. Lipman: I am disagreeing with the matter of principle.

Mr. Astorino: The 11 comments that we have tonight are some of the stuff that we have been asking for. We haven't received that information. The bottom line is that we need information.

Mr. McConnell: Some of these things won't be relevant if it is determined that there hasn't been an increase or whatever. We need to get to the fundamental part of it the organics of it, before we start talking about the height of lights and so forth. It is a non-conforming use.

Mr. Astorino: The lights are going to be fixed regardless whether it is non-conforming or not.

Mr. McConnell: Ok. I just don't see why we should be spending time talking about it at this stage.

Mr. Lipman: I agree with you that if are going to consider whether this use has been enlarged and the extent of the enlargement, that would control a lot of things.

Mr. McConnell: We need the information that we have been asking for.

Mr. Lipman: Which information?

Mr. McConnell: How about permits and plans?

Mr. Lipman: Do you mean for what has been done before our time?

Mr. McConnell: I don't know when it was done.

Mr. Bollenbach: We are trying to establish a baseline.

Mr. Astorino: The bottom line is that we need the information.

Mr. Bollenbach: Zen, regarding the DEC, maybe you could notify them?

Zen Wojcik: I will give them a call.

Mr. Astorino: I agree with Dennis. I think that you may be resisting, but if it is or isn't at least you would know what could possibly be done.

Mr. Lipman: This is what must be determined before we go any further.

Mr. Astorino: Get us the information that we need. We will then go from there.

Comment #10: The Water Use Calculation placed on the plan shows a purported hydraulic load (septic discharge) of 3,822 gpd. The last SPDES permit for the property (January 1, 2004) limits the discharge to 2000 gpd, which is used in the Sewer Calculations placed on the plan. Applicant to discuss.

Mr. Astorino: We discussed that at the work session.

Kirk Rother: Is the Board going to allow us to increase that to possibly 5,000 gpd?

Mr. Astorino: That is not our call. That would be the SPDES. We are not going to make an application to expand the SPDES permit if we don't need to if the seating would be limited to 2,000 gpd.

Mr. Bollenbach: That is what we are looking to do. That is why we are trying to get the plan to conform with the septic capacity.

Mr. Lipman: We went through this at the last workshop that I attended. What right do you have to tell us that without expanding it business couldn't increase? How can you tell me that can happen?

Mr. Bollenbach: We are looking at the seating capacity.

Mr. Lipman: But, the usage of sewage depends upon how many times the seats are filled.

Mr. Bollenbach: Zen, I believe the County's calculations are based on seating capacity.

Zen Wojcik: Kirk had done a calculation. that is correct.

Mr. Lipman: That might be their standards.

Kirk Rother: All along, we have been talking about establishing a baseline. There have been 4 or 5 different things that we could use to establish that regarding the SPDES permit, the Liquor Authority license, and the parking that is there. Which one of those would arrive at the baseline number of seats? Using the SPDES permit we went through that exercise last week, we arrived at 93 seats. If he will be stuck at 93 seats, I am not going to apply to the DEC to increase the SPDES permit.

Mr. Astorino: Anything over the 93 seats, you would be above your SPDES permit. Is that correct?

Mr. Lipman: Assume that we got the permit increased to whatever we need...

Mr. Astorino: Regarding the flow on whether it is an expansion or what?

Mr. Bollenbach: If it is deemed to be a permitted expansion of use.

Mr. Lipman: I will read case law. "An enlargement is a physical enlargement of the plant and the use. It is not occasioned by an increase in the intensity of the use of the same space." If I have the opportunity to double the number of tables in the facility and therefore the number of patrons, that is not an expansion of the non-conforming use. It is still within what existed. What we changed outside, I don't know if we gave up anything when we added outside. We did as a matter of fact because I recall an area of where the pool table was located that was originally with tables and chairs. It is not going to be with tables and chairs. The increase in usage could come from the existing space. That is not an enlargement.

Mr. Astorino: Of the existing space, not the added space, which could possibly be the deck?

Mr. Lipman: Correct.

Mr. Astorino: Zen, there is a calculation for that. Is that correct?

Mr. Lipman: I don't think all of what we did amounts to 15%.

Mr. Bollenbach: Let us see those numbers.

Mr. McConnell: Mr. Lipman, there is nothing wrong with what you are saying. What surprises me is that you haven't done the work to show this.

Mr. Lipman: We have done the calculations. We have them.

Mr. McConnell: Make the argument. This is what we have. This is what we have now.

Mr. Lipman: We have them.

Mr. McConnell: We do not have them.

Mr. Astorino: We do not have them.

Mr. Lipman: I don't understand why you don't have them.

Mr. McConnell: We don't have the documentation to back it up if you had made it.

Mr. Astorino: What percentage is the deck?

Kirk Rother: At the workshop after a whole discussion for an hour, we were talking about GLA (Gross Leasable Area). John had read in the Code that said you could increase up to 15%.

Mr. Bollenbach: That would be 15% of the footprint.

Kirk Rother: The footprint of the building. It was not per story.

Mr. Bollenbach: Correct.

Kirk Rother: That was what my office had done over the past week. We did measure it. I have the drawings. We haven't even arrived to this.

Mr. Bollenbach: Kirk that is what we are looking for. Get that to us as soon as you can. We will look at that.

Kirk Rother: You have to remember that I am given only one week to do all of this stuff. Alan, Zen or anybody hasn't had a chance to look at these numbers. Somebody needs to tell me what is and is not included in the GLA.

Mr. Astorino: Zen, you could handle that tomorrow. Is that correct?

Mr. Lipman: Why are you using the term GLA?

Mr. Bollenbach: I thought it was the building footprint. We will have to confirm that.

Zen Wojcik: The GLA was for the parking.

Mr. Astorino: Then, it is just the 15% footprint of the building.

Kirk Rother: That is better.

Mr. Astorino: Get us the information that we need. We will go from there.

Comment #11: Show the approximate limit of the Town's Designated Protection Area (100-feet from the shore of Greenwood Lake).

Kirk Rother: No problem.

Mr. Astorino: How long would the turnaround be in order for you to get us this information? How much time do you need?

Kirk Rother: I have been getting stuff to you at the night of the meetings. You are not having a chance to look at it.

Mr. Astorino: That is what I am saying. It doesn't do us any good. We will keep you on the 11/9/09 and 11/23/09 Work Sessions. Get the information to us as soon as you can.

Mr. Lipman: I won't be here for the 11/23/09 Work Session. You don't need me for that. When is the meeting in December?

Connie Sardo: That would be 12/2/09.

Mr. Lipman: I can't do that.

Connie Sardo: The other meeting in December would be 12/16/09.

Mr. Lipman: I could do the 12/16/09 Planning Board meeting.

Kirk Rother: Let us keep them on the Work Sessions. I will be there. It would work out good because if there is more material needed from that Work Session, then I could provide it.

Mr. Bollenbach: At least we would have the opportunity to review it.

Mr. Astorino: That is fine.

Mr. Bollenbach: We will keep the Castle Taverns on the 11/9/09 and 11/23/09 Work Sessions.

Mr. Astorino: It will be for the Board to discuss permits and everything else that has to come in that we had discussed for the SLA.

Mr. Bollenbach: There is a 30-Day Notice from the SLA for the Town to respond.

Mr. Astorino: The Planning Board will discuss it at the 11/9/09 Work Session.

Mr. Lipman: Thank you.

Ray Carlisle “Amended” Site Plan

Application for “Amended” Site Plan Approval and Special Use Permit for the construction and use of a Dog Training Facility, situated on tax parcels S 63 B 1 L 8.21 and L 8.22; project located on the western side of County Route 21 1500 feet north of Bowen Road (114 Warwick Turnpike), in the MT zone, of the Town of Warwick. Site Plan Approval and Special Use Permit was granted on, 2/4/09. Previously discussed at the 7/15/09 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer. Mr. Alan Lipman, Attorney. Ray Carlisle, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. Provide supplemental screening/landscaping to the Town Planner’s specifications.
2. Applicant to discuss project.
3. Board and applicant to discuss compliance with §164-46J(2) and applicability of the amended ZBA determination. (Applicant has removed the text of the variance and claims that it is no longer applicable.)
4. Notes #10 & #11 have been placed on the plan at the Board’s request. Board and applicant to discuss.

BEFORE FINAL APPROVAL:

5. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes.
6. Applicant to provide 9-1-1 addressing.
7. Pay a 3-year term landscape bond and inspection fee for screening plantings.
8. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Ray Carlisle “Amended” Site Plan – None submitted.

The following comment submitted by the ARB:

Ray Carlisle “Amended” Site Plan – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: This is an amended application. The Planning Board had previously issued a Negative Declaration on this application. In a case like this, you would look at the changes to the approved plan and the amendments. It would be the Board’s call to determine whether or not there would be any increase in potential for adverse impacts. If there are, the Board could reopen SEQR and amend the Negative Declaration or if the Board feels the impacts are potentially significant, than you could rescind the Negative Declaration. At this point, we are gathering information to try to make that determination.

A. Provide supplemental screening/landscaping to the Town Planner's specifications.

Kirk Rother: Mr. Chairman, I don't think some of these have changed much. This is still a condition of the original approval. I need to meet with Ted to find out what he wants.

Mr. Lipman: I don't think the Board has determined the necessity of it.

Mr. Bollenbach: What is proposed? Ted, have you taken a look at it?

Mr. Astorino: What was the prior approval? I am sure you must have that.

Mr. Lipman: No. The prior approval had the exact conditions of what this has.

Mr. Astorino: You will need to meet with Ted on that.

Comment #2: Applicant to discuss project.

Mr. Lipman: Didn't you have enough of that?

Mr. Astorino: Does the Board have anything further?

Mr. Singer: I have had enough.

Kirk Rother: Mr. Chairman, could I backup a little?

Mr. Astorino: Yes.

Kirk Rother: Ted, did you have the opportunity to look at this at all?

Mr. Fink: Yes. I think you had 4 evergreens. I know there was a significant amount of planting that had already been done on the property.

Kirk Rother: Are there anymore?

Mr. Fink: I don't see any significant vegetation that has to be planted to further mitigate this. I will take another look at it.

Mr. Bollenbach: It would also be subject to public comment.

Kirk Rother: That is the only reason why it is hanging out there. We show a tree survey with the proposed.

Mr. Lipman: We already had done specific things that were suggested by both of you. We had some rows removed for sight distance. We replaced plantings towards the back. That part is completed.

Kirk Rother: It has been addressed.

Mr. Astorino: Ok.

Comment #3: Board and applicant to discuss compliance with §164-46J(2) and applicability of the amended ZBA determination. (Applicant has removed the text of the variance and claims that it is no longer applicable.).

Mr. Lipman: Right. The requirement is 300-foot setback from a kennel.

Mr. Bollenbach: That is what the Board is still contemplating as to whether or not there were kennel structures.

Mr. Astorino: Does the Board or Professionals have any issues?

Mr. Bollenbach: The kennel operation within the 300 feet, I believe that still has to be determined.

Mr. Lipman: It is not kennel operation. The kennel is a structure.

Mr. Bollenbach: I think the Planning Board can place reasonable conditions on the property. I believe that was precisely discussed at the work session.

Mr. Astorino: Yes. That was discussed at the work session. We talked about a map note regarding the amount of dogs.

Mr. Showalter: There is a note on the map, note #11.

Kirk Rother: Map note #11 is stated as follows; *“the existing 1-1/2 story frame building shall not house more than three dogs at any time nor shall it be used for keeping of more than one litter of puppies per year.”*

Mr. Astorino: Is the Board comfortable with that note?

Mr. McConnell: We are talking about the building that is at the end of the driveway that is shown having 12 or whatever amount of pens. I still object to that building containing 12 pens and not being considered a kennel building. To my simple mind, if it has 12 pens in it, it is a kennel building. We talked at the work session about removing some of those kennel pens so that it wouldn't qualify as a kennel building.

Mr. Lipman: The term that the Ordinance uses for dog use, it is the use under discussion. It is specifically defined in the Ordinance that it is a structure not a use. It is stated as follow in the Ordinance. *“It is used for the harboring of more than 3 dogs that are more than 6 months old or, more than 12 dogs that are under 6-months old.”* We have 3 adult dogs. It is not more than 3 dogs. We have agreed that they would restrict it to one litter of puppies a year. But, a litter could contain as many as 10, 11, or 12 pups.

Mr. McConnell: Are you also going to agree to restrict it to no more than the 3 adult dogs.

Mr. Lipman: If we do, we would then have a kennel. We are not allowed to have a kennel. We will agree.

Kirk Rother: Map note #11 already states that.

Mr. Astorino: Map note #11 states, "*the existing 1-1/2 story frame building shall not house more than three dogs at any time nor shall it be used for keeping of more than one litter of puppies per year.*" We could change it to no more than 3 adult dogs. Dennis, do you want it changed to that?

Mr. McConnell: Other than the typos, yes.

Mr. Astorino: Is the Board comfortable with that?

Mr. Bollenbach: I don't know how comfortable the Board feels with that. Perhaps, you might want to wait until after the public hearing.

Mr. McConnell: Yes.

Mr. Lipman: The building that we are proposing will house more than 3 adult dogs, but probably no puppies.

Mr. Astorino: We understand that. The issue here is if we are comfortable with that.

Mr. McConnell: I am just concerned about the enforcement issue of a building that could house more than the 3 dogs and you put a burden on the enforcement officer.

Mr. Bollenbach: I will refer it to the Building Inspector to see if he has any additional comments.

Mr. Lipman: Let me say something about that. Every use that you approve has the same risk. Somebody would use it in a fashion not authorized. If you had a 3-bedroom home, then suddenly a den becomes a 4th bedroom.

Mr. McConnell: Your metaphor fails right there. You built a 7-bedroom home and say that you are only going to put people in 3 of the bedrooms because we are only approved for a 3-bedroom house. That would be more parallel to what we are talking about here.

Mr. Lipman: If you think so, then fine. Anything is subject to somebody taking advantage of the space that is not authorized.

Mr. Astorino: The bottom line is for us to set this for a public hearing. Let us have the public hearing, than we will go from there. The Board knows what the deal is. We could make a decision after the public hearing. The rest of the comments are the same from the last time. We will list comments 4 through 8 for the record. Could the Board make a motion to set this for a public hearing?

Comment #4: Notes #10 & #11 have been placed on the plan at the Board's request. Board and applicant to discuss.

BEFORE FINAL APPROVAL:

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

Comment #6: Applicant to provide 9-1-1 addressing.

Comment #7: Pay a 3-year term landscape bond and inspection fee for screening plantings.

Comment #8: Pay outstanding review fees.

Mr. McConnell makes a motion to set the Ray Carlisle “Amended” Site Plan application for a Public Hearing at the next available agenda.

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

Mr. Lipman: When would the next available agenda be?

Mr. Bollenbach: You are going to be away. Would you be available the second meeting in December?

Mr. Lipman: We could do it the second meeting in December.

Mr. Astorino: We are not setting the public hearing tonight with a date.

Connie Sardo: Send me a letter stating what date you would like to be on for a public hearing.

Kirk Rother: Ok. We will not be making a new submittal.

Mr. Bollenbach: Just write us a letter so we could have it on file.

Kirk Rother: Ok. Thank you.

Mr. Lipman: Thank you.

Other Considerations:

1. **Watchtower/World Headquarters** – Planning Board to discuss Draft Scoping Document.

Representing the applicant: Bob Pollock, the applicant. Max Stach from the Turner Miller Group.

Mr. Fink: We have the Draft Scoping Document that the applicant had prepared. The next step in the process is to involve the public. We will need to distribute the Draft Scoping Document to all of the involved and interested agencies asking for their comments as well as any public comments. I have prepared a Notice of Public Scoping that could go up on the Town's website and be placed in the newspaper to inform people of the Public Scoping Session. I believe we have the Public Scoping Session set for December 2, 2009.

Mr. Astorino: Ted, I think there was an issue with that date. When would the applicant be available for the Public Scoping Session?

Bob Pollock: If it would be possible, we would like to have the Public Scoping Session on November 18, 2009.

Mr. Astorino: Ted, would November 18, 2009 be ok?

Mr. Fink: That would be fine.

Mr. Astorino: Ted, would that give enough time?

Mr. Fink: Yes. You want to give the public sufficient notice that they had an opportunity to take a look at the Draft Scoping document. We would also extend the written comment period. If you wanted to have the Public Scoping Session on November 18th, we could hold the written comment open longer than 10 days. We could keep the written comment period open for 21 days, until December 9, 2009.

Watchtower Public Scoping Session will be held on November 18, 2009 with a 21-day written comment period, until December 9, 2009.

Bob Pollock: Thank you.

2. **Dayspring-Baum Subdivision** – Letter from Kirk Rother, dated 10/9/09 addressed to the Planning Board in regards to the Dayspring-Baum Subdivision – requesting a 3rd 6-Month Extension on Preliminary Approval of a proposed 11-Lot cluster subdivision (9-New Residential Lots), situated on tax parcels S 31 B 2 L 2 & 8; parcels located on the southerly side of West Ridge Road 1000+ feet west of Route 94/17A, in the MT zone, of the Town of Warwick, County of Orange, State of New York. Preliminary Approval was granted on, 4/16/08. *The applicant is in the process of obtaining OCHD approval, however, given the economic conditions, the project is proceeding at a very slow pace.* The 3rd 6-Month Extension becomes effective on, 10/16/09.

Mr. Bollenbach: The Board had requested that I investigate the status of the unsafe building. It has been secured through the Building Department to the Town Board's satisfaction. The entrance way has been chained.

Mr. Singer: Has it been demolished?

Mr. Bollenbach: No. It has been secured, not demolished.

Mr. Singer: Did they put a new lock on the door?

Mr. McConnell makes a motion on the Dayspring-Baum Subdivision application, granting a 3rd 6-Month Extension on Preliminary Approval of a proposed 11-Lot cluster subdivision (9-New Residential Lots). SBL # 31-2-2 and 8. Preliminary Approval was granted on, 4/16/08. The 3rd 6-Month Extension becomes effective on, 10/16/09.

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

3. **Vieldhouse #2 Subdivision** – Letter from Ryan McGuire from Pietrzak & Pfau Engineering, dated 10/20/09 addressed to the Planning Board in regards to the Vieldhouse #2 Subdivision – requesting “**3rd Re-Approval**” of Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 53 B 1 L 39; property located on the northwestern side of Brady Road 2,200 feet northeast of Black Rock Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York. Final Approval was granted on 11/1/06. 2nd Re-Approval of Final Approval was granted on 11/5/08 became effective on 11/7/08. *The applicant has stated that the attorney is currently in the review process with the Town Professionals regarding the common driveway use and Maintenance Agreement for this project.* The 3rd Re-Approval of Final Approval becomes effective on 11/4/09, subject to the conditions of Final Approval granted on, 11/1/06.

Mr. Bollenbach: Just for the Board's information, we have some revised comments found in Tectonic's comment letter for a 2-lot subdivision for plans dated 4/8/05 by Pietrzak & Pfau, last revised 10/19/06. They would be comment 1 through 11 as follow:

1. Sheet 2 of 3, Plat & Profile, must be signed by a PLS.
2. Revise General Note 19: “The slope of the proposed Lot 2 driveway exceeds 10%. The driveway must be paved in its entirety prior to the issuance of a Certificate of Occupancy. The common driveway must be paved from Brady Road to a point 25 feet west of the intersection of the Lot 2 driveway.”

3. Note the area within the Limits of Disturbance. If the area exceeds 1 acre, note that an NOI is required.
4. Soil Erosion Control –
 - A. Silt fence is shown to be installed across the driveway swale at ±Sta. 1+00. This is an inappropriate erosion control measure for this location. Provide temporary check dams, permanent swale stabilization, or other suitable erosion control on swales, as warranted by design conditions. Provide details on plans.
 - B. Revise grassed swale detail per current *NYS Standards*.
 - C. Provide a stabilized construction access; place detail on plans.
5. Provide stormwater management facilities along paved driveways and at the intersection of the common driveway and Brady Road, to the Town Engineer's specification.
6. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, and Common Driveway Use and Maintenance Agreement Notes.
7. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
8. Pay parkland fees.
9. Pay Performance Bond and Inspection Fees (soil erosion control & drainage) and Landscape Maintenance Bond.
10. Pay outstanding review fees.
11. Revise Landscape Plan to Town Planner's specifications.

Zen Wojcik: Comment # 2 and #5 were the ones that have changed since the last approval.

Mr. Showalter makes a motion on the Vieldhouse #2 Subdivision application, granting a “**3rd Re-Approval**” of Final Approval for a proposed 2-Lot subdivision, situated on tax parcel S 53 B 1 L 39; parcel located on the northwestern side of Brady Road 2,200 feet northeast of Black Rock Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 11/4/09 as follows:

1. Sheet 2 of 3, Plat & Profile, must be signed by a PLS.
2. Revise General Note 19: “The slope of the proposed Lot 2 driveway exceeds 10%. The driveway must be paved in its entirety prior to the issuance of a Certificate of Occupancy. The common driveway must be paved from Brady Road to a point 25 feet west of the intersection of the Lot 2 driveway.”
3. Note the area within the Limits of Disturbance. If the area exceeds 1 acre, note that an NOI is required.
4. Soil Erosion Control –
 - A. Silt fence is shown to be installed across the driveway swale at ±Sta. 1+00. This is an inappropriate erosion control measure for this location. Provide temporary check dams, permanent swale stabilization, or other suitable erosion control on swales, as warranted by design conditions. Provide details on plans.
 - B. Revise grassed swale detail per current *NYS Standards*.
 - C. Provide a stabilized construction access; place detail on plans.
5. Provide stormwater management facilities along paved driveways and at the intersection of the common driveway and Brady Road, to the Town Engineer's specification.
6. Provide the Declaration and the Recording Information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, and Common Driveway Use and Maintenance Agreement Notes.
7. Certify Setting of Iron Pins. Surveyor to certify that iron rods have been set at all property corners.

8. Pay Parkland Fees.
9. Pay Performance Bond and Inspection Fees (soil erosion control & drainage) and Landscape Maintenance Bond.
10. Pay Outstanding Review Fees.
11. Revise Landscape Plan to Town Planner's specifications.

The 3rd Re-Approval of Final Approval becomes effective on, 11/4/09.

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

12. **BCM Subdivision** – Letter from Dave Higgins from Lanc & Tully Engineering, dated 10/19/09 addressed to the Planning Board in regards to the BCM Subdivision – requesting “**2nd Re-Approval**” of Final Approval of a proposed 40-Lot + 1-Lot for well + 1-Lot of open space, situated on tax parcel S 44 B 1 L 133; parcel located on the northerly side of Route 17A at the intersections of Ketchum Road and Pumpkin Hill Road, in the SL zone, of the Town of Warwick County of Orange, State of New York. Final Approval was granted on 11/21/07. Re-Approval of Final Approval granted on 11/5/08, became effective on, 11/21/08. *The applicant has stated due to the continued state in the housing market and national economy that has been in effect over the past couple of years, BCM respectfully requests that the project be re-approved which will in effect extend the approval to provide time for BCM to meet all of the conditions of the approval.* The 2nd- Re-Approval of Final Approval becomes effective on, 11/21/09, subject to the conditions of final approval granted on, 11/21/07.

Representing the applicant: Dave Higgins from Lanc & Tully Engineering. Tony Cialla, Applicant.

Mr. Bollenbach: Do any Board members have any questions or comments for the applicant?

Mr. Showalter: I think he explained it well.

Mr. Astorino: It is self explanatory.

Mr. Singer makes a motion on the BCM Subdivision application, granting “**2nd Re-Approval**” of Final Approval for a proposed 40-Lot subdivision plus 1-Lot for the well and 1-Lot of open space, entitled “**BCM Development**”, situated on tax parcel S 44 B 1 L 133; parcel located along the northerly side of NYS Route 17A at the intersections of Ketchum Road and Pumpkin Hill Road, in the SL zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 11/21/07. (See attached). The 2nd Re-Approval of Final Approval becomes effective on, 11/21/09.

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

Dave Higgins: Thank you.

Tony Cialla: Thank you.

13. Planning Board Minutes of 10/7/09 – Planning Board Minutes of 10/7/09 for Planning Board Approval.

Mr. McConnell makes a motion to Approve the 10/7/09 Planning Board Minutes.

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

Correspondences:

Mr. Astorino: Connie, do we have any correspondences?

Connie Sardo: No.

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. Showalter makes a motion to adjourn the November 4, 2009 Planning Board meeting.

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