

TOWN OF WARWICK PLANNING BOARD

December 16, 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, December 16, 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.

PUBLIC HEARING OF Ray and Myrna Carlisle

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, County of Orange, State of New York.

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

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Ray and Myrna Carlisle public hearing.

Mr. Astorino: Thank you.

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. Correct the typo in Note #11: *litter* not liter.

BEFORE FINAL APPROVAL:

4. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes.
5. Pay a 3-year term landscape bond and inspection fee for screening plantings.
6. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 12/16/09:

Ray and Myrna Carlisle – CB refers the PB to its previous comments.

The following comment submitted by the ARB:

Ray and Myrna Carlisle – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: This is an application that had received a prior Negative Declaration by the Planning Board. The applicant has proposed amendments to the plan. Zen and I went over the Negative Declaration yesterday. We both felt that there would be some changes that needed to be made to the Negative Declaration that relates to the proposal that is currently before the Planning Board. I have prepared an amended Negative Declaration. There were two changes made to the Negative Declaration. One, we removed the references to the caretaker's apartment that we had in the prior version of the Negative Declaration. The caretaker's apartment is no longer part of the application. Secondly, in the Negative Declaration under the Reasons Supporting This Determination, item #4, I amended the language in item #4, to remove the reference of the Zoning Board of Appeals variance. In their prior application, they went to the Zoning Board of Appeals. In their prior application, they received a variance for minimum of 300-foot distance to the nearest property boundary. In this case, what they have done was offer stipulations that they would abide by in terms of how the buildings would be used and how the exercise pen would be used. What I have done was incorporate those stipulations that appear on the site plan into the Negative Declaration.

Mr. Astorino: Ok. That was what we had discussed at the Work Session.

Mr. Fink: Yes. Those were the only changes that were made to the Negative Declaration. It is now labeled as an Amended Negative Declaration. I have prepared an Amended Resolution authorizing the filing of the Negative Declaration. It is still an Unlisted Action. It does not need to be circulated to any other involved or interested agencies.

Mr. McConnell: Ted, in your Reasons Supporting This Determination in item #4, it is stated that the applications comply with the Town Zoning Law provided the applicant maintains and the Town enforces Special Condition. Why is there a need to reference the Town enforcing the Special Condition as a reason for supporting this determination? I don't understand the logic of that. I think they would just need to maintain.

Mr. Fink: You have brought up a good point. It should just be maintained. It doesn't have to be enforced. You are right about that.

Mr. McConnell: Right. Whether they enforce it or not, it still does not change, whether they are in compliance.

Mr. Fink: Correct.

Mr. Astorino: Do you want to take that word out?

Mr. Fink: Yes. We could take the word enforcing out.

Mr. Astorino: We will strike that word. We will have it as an amendedment.

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

Mr. Lipman: What are we talking about?

Mr. Astorino: We are talking about screening on that side.

Mr. Lipman: I know the subject. What is the extent that you are anticipating you will call for.

Mr. Fink: Kirk and I were going to work that out.

Kirk Rother: We show a lot of landscaping.

Mr. Fink: We would have to work that out.

Mr. Bollenbach: We could adjourn this. They could go out and review it. We could take action on it at a later date.

Mr. Lipman: I don't want to review it.

Mr. Astorino: Kirk, you have had discussions with Ted on this matter. I think we had discussed it at the Work Session. You would get together with Ted.

Mr. Lipman: It would have to be subject to not only to the Town Engineer's approval but to the applicant's approval. That would be fine.

Kirk Rother: At this point, there is a robust landscaping plan that is shown on sheet #2. As part of that, there are 4 proposed Norway Spruces between the Carlisle property and the Carras property. I believe at the Work Session, it was mentioned that Ted would need an opportunity to review the plan to see if that was adequate.

Mr. Astorino: But, if there is an additional, I think that is where Mr. Lipman is coming from. There might be one or two more put in according to Ted.

Mr. Lipman: I am not worried about that.

Mr. Astorino: I think that is what we are talking about here. I am not saying that we are going to build a wall up here. We will be screening it as we do always.

Mr. Fink: We have always reviewed the existing landscaping as being fairly extensive out there. The applicant has shown that on their site plan.

Mr. Lipman: All right. All I am suggesting is that I can't sign a blank check. I would like to be able to say that I can't do that. I would like to talk about something in substitution for it.

Mr. Bollenbach: You could always come back to the Planning Board if it is not acceptable.

Mr. Lipman: Then, just say as long it is acceptable to him and to us. There would be nothing wrong with that.

Mr. Fink: I think the objective was to fill in the gaps.

Mr. Lipman: In over the cost, there were other issues raised. They were very difficult to cure, if they existed at all.

Mr. Bollenbach: Do you want to add to that subject to applicant's consent?

Mr. Lipman: Yes.

Mr. McConnell: Is that suggested the approval is subject to the applicant's consent?

Mr. Bollenbach: No. It is just the landscaping is subject to the applicant's consent. If it is not, then it would go back to the Planning Board.

Mr. McConnell: Ok. That would have to be made clear.

Mr. Astorino: Let us have that specified.

Mr. Bollenbach: Yes. Comment #1-A will read as follows; *provide supplemental screening/landscaping to the Town Planner's specifications, subject to applicant's consent.*

Mr. Lipman: Yes. It would be just a condition. That is all.

Mr. Singer: But, there is no approval.

Mr. Lipman: Until the condition is satisfied, then the approval would not become effective.

Mr. Astorino: Exactly. Is everyone comfortable with that?

Mr. McConnell: Yes.

Comment #2: Applicant to discuss project.

Mr. Lipman: There were no changes since this was reviewed the last time. As the label on the plan indicates, it is a dog training facility. It is a site plan. The site contains approximately 11-1/2 plus 21± acres. There is an existing home on the site. There is an existing accessory structure which is no longer proposed for use or anyone to occupy it. There is a proposed kennel in the rear and 1/3 away across nearer to the south boundary line of the property. The training field is shown behind that accessory structure. I believe we now satisfy all of the dimensional requirements of the Ordinance.

Comment #3: Correct the typo in Note #11: *litter* not liter.

Kirk Rother: Will do.

BEFORE FINAL APPROVAL:

Comment #4: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes.

Kirk Rother: Yes.

Comment #5: Pay a 3-year term landscape bond and inspection fee for screening plantings.

Kirk Rother: That ties to comment #1. We will do that.

Mr. Lipman: Is that for the newly planted materials that we may agree upon?

Kirk Rother: Yes.

Comment #6: Pay outstanding review fees.

Mr. Lipman: Yes.

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

Steve Carras: I live at 109 Warwick Turnpike. I have seen this project through from the beginning several years ago. I do have a number of questions. I thought I had just heard Mr. Lipman say that there has been no changes since the last review. I took a look at the map. I would like to draw to the Board's attention the map and the location and size of the training field. The training field that is shown on that map was the training field that was constructed by the applicant several years ago. Last August, an additional training field equal to the size of the prior one was constructed. That training field was built directly next to the existing training field that is shown on the map. Essentially, what you have is a training field twice the size as represented on the map. It seems to me, just based on observation that the new training field with the old one exceeds the ¼-acre re-grading, and fill limitation.

Mr. Astorino: Was it graded? Were the trees cut?

Steve Carras: Yes. The trees were cut.

Mr. Astorino: Was it all wooded?

Steve Carras: It was wooded. I don't know if it was 100% wooded. But, there were extensive woods. It was cut. The applicant had Mr. Majewski bring in many trucks with thousands of yards of fill. Then, bulldozers graded it. Grass was planted. In the end result, by my estimation, you have a training field that is about ½-acre. That is in addition to a parking lot that was constructed several years ago. That is also not reflected on the map.

Mr. Astorino: Are you talking about additional parking?

Steve Carras: Yes. There is additional parking.

Mr. Astorino: When was that done?

Steve Carras: The parking lot was done several years ago. The parking lot is directly west of the lot line that was my property, which is now owned by someone else.

Mr. Astorino: Did you bring this to the attention of the Building Department back then?

Steve Carras: I brought it to the attention of the Building Department back in August. I believe the Building Inspector came up and had some discussions with the fellow that was trucking in the dirt.

Mr. Astorino: Does anybody know if any violations were issued? We haven't seen any. Is that correct?

Zen Wojcik: There were no violations. I remember John Batz going out. When he went out, he said that the area that was being disturbed was less than ¼-acre. I don't know if it was at the beginning, middle, or at the end of this process.

Mr. Bollenbach: I think that was where the loads of dirt were piled that was less than ¼-acre. Whether or not that has been distributed over an area that is larger, I do not have any idea about that.

Steve Carras: It was my understanding and speaking with John Batz, what he had seen was an area that he instructed to the person was to not go beyond ¼-acre. What I don't think Mr. Batz had understood was that this was contiguous to a previously constructed training field, which is reflected on the map. Essentially, the training field is approximately a large square, which is about ½-acre. All of this construction is done by the applicant. The first part was done a couple of years ago. The 2nd part was done in August. The parking lot was built about 2 or 3 years ago, which included the cutting on the land. I noticed on the map that in addition in not showing this, it seems to the west of the training field, it shows trees. Those trees are not there anymore. If you go out there, you could see that there is a wide-open space that has been cleared.

Mr. Astorino: Kirk, when were these maps done?

Kirk Rother: They were done prior to August.

Mr. McConnell: Steve, do you have an approximation on how many trees were taken down?

Steve Carras: I couldn't tell you. There was a fellow out there with a chainsaw.

Mr. Astorino: Steve, was it the hedgerow?

Steve Carras: No. There were significant trees. I have taken a look at the aerials from the years 2002 and 2006, you could see a significant change. You could see what trees were there. If you go to the site now, you would see that there are no longer trees in that area. I am guess maybe about 10 to 40 trees. I don't know. I am guessing. My concern is that all along and the Planning Board and the Zoning Board knows from my time before them when this matter first came up that this was always a concern to me that work was being undertaken at the site prior to any Town approvals and prior to any applications.

Mr. Astorino: You mean additional work. They did have an approval.

Steve Carras: No. The work was undertaken long before the approval. That training field was constructed before they came here.

Mr. Astorino: Now, you are saying before he even came to this stage that there was additional work being done.

Steve Carras: Yes.

Mr. Astorino: Is that what you brought to the Building Department's attention back in August?

Steve Carras: I spoke to John Batz because at 7:00 a.m. dump trucks started going in and out of the property.

Mr. Astorino: How long did they continue?

Steve Carras: They continued for 2 days before the re-grading. I have a couple of questions about the kennel. It says a portable shed is to be used for a kennel. I was wondering if the Board had any concerns about why there is a portable shed being used as a kennel. Why is it not a permanent building? What is a portable shed? I didn't see anything in the Code about a portable shed being used as a kennel.

Mr. Astorino: Which one are you referring to? There are two sheds on the property.

Steve Carras: The new one. There was no indication about where these animals will exercise. Is there a fenced in area?

Mr. Astorino: That building would be a kennel. That building is the one that meets the requirements. That would be the kennel that is defined in the Code.

Mr. McConnell: There is nothing on the plan that shows a fenced-in area.

Steve Carras: The concern is that the applicant has moved the kennel into an area that is beyond the setback. There is a narrow envelope, which is shown on the map. There is nothing shown on the map where the animals would be exercised. It was my contention way back that the animals would be exercised on the training field, which was why I thought the training field should have been within the 300-foot setback as per the original map. This Board has discussed that issue. The Planner had said he had made a mistake. Because this is located within the Ridgeline Overlay District, I know that there are restrictions there. One of the concerns about the Ridgeline Overlay is that all efforts being made to locate structures on the lowest possible parcel of land. In this case, it seems to me based on the topo lines are that this is at one of the highest places. I don't know if that has been addressed. The current owner of my former property is also here to speak tonight. I will let him speak.

Mr. McConnell: Steve, do you have copies of those aerials that you were referring to?

Steve Carras: I do.

Mr. McConnell: Could you drop them off so that the Board could take a look at them?

Steve Carras: Yes.

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

Robert Kirschke: I live at 110 Warwick Turnpike. I have a 3-year-old daughter. I was wondering if there would be fencing around the property just in case the dogs got loose. Regarding the noise level, I would like to know what this portable shed would be constructed out of. As of right now, I hear barking over night from the dogs that he has over there already. I would also like to know what would be happening with the waste from these animals. How many dogs would be permitted on the property? To have animal feces being washed into the woods or into the environment, then it could seep down into the wells. There could be a lot of complications from that happening. Those are some of the concerns that I have. What type of lighting would be put into this area? Are the lights going to be so bright that it goes through windows? That was another concern that I had as being the new homeowner. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Carlisle application? Let the record show no further public comment. Does the Board want to see more information?

Mr. McConnell: Yes.

Mr. Astorino: We need to do some investigation to see when it was expanded or not expanded. We need to find out if there was a violation.

Mr. Lipman: If there was a violation, the Building Inspector did not see it.

Mr. Showalter: I would say that if there was a violation the Building Inspector should have brought that up when he was called out to look at it.

Mr. Bollenbach: The Building Inspector is away on vacation for the next 3 weeks. Do you want to put this off to the 1st meeting in February.

Connie Sardo: John, that would be the February 3, 2010 Planning Board meeting.

Mr. Astorino: The reason for the public hearing is for the public to address their concerns.

Mr. Lipman: I know that. But, what was said was that both the old and the new portions of the training field amounted to about ½-acre. It was also said what was done recently has doubled the size. It would suggest to me that each would be approximately ¼-acre. That happens to be the threshold for when an approval is required to do that work. Also what was said, Mr. Batz has gone out there and said that it is not more than ¼-acre. If we had a violation, we would hear about it. I can't explain if that was supposed to be an enlarged training field and why the plan doesn't show it. I have no explanation for that.

Mr. Astorino: It also doesn't show what trees were cut, if any. That was brought up. Kirk, you even had said that this was done prior to August. That is not on the plans.

Mr. Bollenbach: It is tree removal and excavation in excess of ¼-acre. It is not each. It is cumulative. That might be something that the Building Inspector did not take a close look at.

Mr. Lipman: I am thinking that the trees that were removed were in the area where the training field might have been enlarged. I don't know if it was intended as an enlargement.

Mr. Astorino: Now, the training field that is shown on the plan is that what is out there currently right now?

Lipman: No. It was what was out there in August.

Mr. Bollenbach: Kirk, could you go out there and show us where the clearing was done and where the additional field area is?

Mr. Astorino: From what we had just heard from the public hearing was that there is an additional field that has doubled in size than what is showing on the plan here.

Kirk Rother: I am just hearing about this for the first time.

Mr. Astorino: So are we hearing about this for the first time.

Mr. Lipman: I have no knowledge and I don't think whoever raised this subject has any knowledge on what is intended to be done with that area that was cleared. I don't know if that was part of the enlarged training field.

Mr. McConnell: I am not sure if that matters.

Mr. Lipman: In what respect? Do you mean in violation?

Mr. McConnell: Yes.

Mr. Lipman: There is no violation.

Mr. McConnell: Ok. Mr. Lipman, that is your position, we understand that.

Mr. Lipman: No. It is a fact. There is no notice of a violation.

Mr. McConnell: Correct. That doesn't mean there isn't any violation. It just hasn't been noticed yet.

Mr. Astorino: The application is before the Planning Board.

Mr. McConnell: Right.

Mr. Astorino: We should see a revised map before we make any decision.

Mr. McConnell: Yes.

Mr. Astorino: Whether it is in violation or not is immaterial at this point.

Mr. McConnell: Right.

Mr. Astorino: According, to the applicant's engineer, if it is or isn't there, it would still be up in the air.

Mr. Lipman: Do you mean if work was done?

Mr. Astorino: Yes.

Mr. Lipman: I could see that work must have been done.

Mr. Astorino: How many trees were taken down? Kirk, do you have an answer for that?

Kirk Rother: No.

Mr. Bollenbach: We could adjourn the public hearing to the February 3, 2010 meeting.

Mr. Astorino: I think that is where we would be at. I don't know what else to do at this point.

Mr. Lipman: If something had been done there and if it is in an area that we are not proposing to use for the training field, and if there is no violation, what is the significance?

Mr. McConnell: That is a lot of ifs.

Mr. Lipman: I know there are a lot of ifs.

Mr. Astorino: It should still be shown on the plans.

Mr. Lipman: You don't have to answer the ifs.

Mr. Astorino: I still say those matters should be shown on the plan. What is out there at that site should be shown on the plans.

Mr. Lipman: I don't have a problem with that. All you have to say is that the plan must be updated to show the present condition of the site and indicate whether the applicant intends to use this area that was recently cleared. There is no size limitation on a training area. If he wants to use an enlarged training area, what is the significance of that in terms of this application apart from the fact that you can't see it tonight?

Mr. Astorino: Or, how many trees were cut down to enlarge this training facility, which is before us. There are certain limitations in the Ridgeline Overlay for tree clearing.

Mr. Bollenbach: Yes. There is also for the excavation.

Mr. Lipman: Is that the 1/4-acre requirement limit?

Mr. Bollenbach: It is 1/4-acre cumulative for excavation, soil removal, timber harvest, and tree removal.

Mr. Astorino: We don't know those answers yet.

Mr. Lipman: Why should we be prejudice tonight because someone suggested that there might be a violation there when the Building Inspector has gone out there, looked at it, and said there were not violations?

Mr. Astorino: We don't have anything solid from the Building Inspector. I haven't spoken to him.

Mr. McConnell: We don't know what Mr. Batz had determined or what he knew about the site prior to his visit. If he wasn't aware that there had been 1/4-acre previously cleared. If our attorney is telling us that it is a cumulative thing. If the Building Inspector went out there and determined what had been cleared in August was less than or no greater than 1/4-acre, he could say that and be accurate and not have reached a determination on whether a violation had occurred because he wasn't aware of the previous clearing. That is one of the things that we need to find out.

Mr. Astorino: The other thing is that this application has been before us for quite some time now. Not at one time has the applicant, your engineer, mentioned it or yourself that there has been any work done.

Mr. Lipman: It appears that this work was done after August. I don't know how many times we have been back here.

Mr. Showalter: We have seen you a couple of times.

Mr. Astorino: We have seen you a few times after August.

Mr. McConnell: Mr. Rother, we have seen both of you several times since August.

Mr. McConnell makes a motion to adjourn the Ray and Myrna Carlisle Public Hearing to the February 3, 2010 Planning Board meeting.

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

Mr. Astorino: We will definitely be in touch with either you or your engineer. Maybe, the Planning Board would like to do a little site visit out there.

Mr. Singer: Kirk, Mr. Lipman was talking about providing supplemental screening. Is that the screening that we are talking about now that was knocked down?

Kirk Rother: No. It is near the entrance adjacent to the Carras property. It was a carryover from when we were here originally. We do show some items on the plan. I think that Ted needs to wave the wand to say if it is good or add some more.

Mr. Astorino: We also need to know about the parking and the size of the parking. It was brought up this evening that the parking that is shown on the plan is not what is out there at the site. If that was done since August, then that might not be on the plan either.

Kirk Rother: I am not sure about the parking on what Mr. Carras was talking about.

Mr. Astorino: That would be something we would also investigate.

Mr. McConnell: Mr. Chairman, I want to make a point on something. What I have in front of me is a project summary list that was discussed at various work sessions and meetings. I see that it was discussed on 10/12/09, 10/26/09, and 11/4/09 that this application was discussed at either a work session or a Planning Board meeting. That is 3 times since August that this applicant has been in front of us. The notion that they haven't seen us since August; it is not supported by the record.

Mr. Lipman: I didn't say that we weren't here since August.

Mr. Astorino: You said that you didn't know how many times. I have heard that. That is fine.

Mr. Lipman: Thank you.

Review of Submitted Maps:***Watchtower/World Headquarters for the Jehovah Witnesses***

Application for Site Plan Approval and Special Use Permit for the construction and use of campus of buildings for religious use on approximately 30 acres of previously developed land, situated on tax parcels S 85 B 1 L 4.1, 4.2. 5.1. 5.2; parcels located on the southwest side of Long Meadow Road 6,000 feet north of Sterling Mine Road (CR 72), in the LC zone, of the Town of Warwick, County of Orange, State of New York. Planning Board adopted a Positive Declaration, adopted on 10/7/09. Public Scoping Session was held on 11/18/09. For review of comments on the Draft Scoping Document.

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

The following review comments submitted by Tectonic: None submitted.

The following comment submitted by the Conservation Board, dated 12/16/09:

Watchtower/World Headquarters - CB suggests a site visit before completing scoping. The CB's preliminary comments on the scoping document were provided separately.

The following comment submitted by the ARB, dated 12/16/09:

Watchtower/World Headquarters - While the application is moving through the process and a certain amount of work is underway to remediate portions of the site and remove structures that are no longer viable, the Architectural Review Board would like to see proposed designs (elevations if and when possible) for the rehabilitation of existing structures and for proposed new structures.

Mr. Fink: The applicant has provided us with a Draft Scoping Document, which kicked off the Public Scoping process. The Planning Board held a Public Scoping Session on 11/18/09. The Planning Board held the written public comment period open until 12/9/09. We received some comments from the public at the Public Scoping session as well as a couple of written comments. We received a letter from the Tuxedo Union Free School District from the Superintendent, Joseph Zanetti, dated 12/7/09. We received another letter from Mike Santoianni, dated 12/10/09. We also received comments that the Town Engineer has reviewed the Draft Scoping Document. I have also reviewed the document myself. I went back and took a look at the original submission that had been made by the applicant of the EAF and all of the attached documents and so forth. What I had done was revised the Draft Scoping Document. I have now prepared a Final Scoping Document. I have provided a copy of the Final Scoping Document to the applicant today so they could see a redline version of this with all of the changes that were made to the document. I have not yet had a conversation with the applicant or their representatives about it to see if they have any questions or further comments on any of the proposed changes to it, or if there are any additions that the Planning Board might want to include.

Bob Pollock: We went through all of the red lines. We did not have any comments or anything that we felt was improper to add.

Max Stach: There is one point of clarification that we would like to get. You talk about providing a habitat assessment. I believe the applicant has already begun some ecological community studies. We are wondering if that would be sufficient to describe the ecological communities in satisfaction of that requirement.

Mr. Fink: The best way to approach that would be to provide a methodology to us that the professionals that the applicant has engaged is using. I don't know if we are talking the same language here. We need to look at the methodology to see whether or not if it would meet the criteria that the site references here, such as from the Southern Wallkill Bio-Diversity Study and the NYSDEC on what their assessment methods would be. Maybe, the way to do it is to do it with a follow up that could be an addendum to this. This way everyone is clear on this and talking the same language.

Max Stach: Is the Southern Wallkill Bio-Diversity plan area DEC or Town regulated?

Mr. Fink: No. It is an inter-municipal plan that was done by the Metropolitan Foundation Alliance. It was presented to the Towns of Warwick, Chester, and Goshen with a request that the Towns would consider this in their overall planning process. The Town of Warwick has been using this since the document became available about 5 years ago. Every time a property that is within an area that has been identified as important bio-diversity, the Planning Board has been asking for habitat assessment on that property to define whether or not there is any significant habitats or areas that are important for bio-diversity purposes. We have done this through the SEQR review process. There are records of rattlesnakes and other species of conservation concern in that area and perhaps on the property. It takes on somewhat more significance because of that. Often, we are just left with a map that shows a blob that says this would be important for one reason or another. Maybe, there is a wetland or a species that is declining, etc... I know that there has been a lot of work that was done previously for The Kings College project. There were assessments done as part of their EIS. There was a tremendous amount of work done for the Sterling Forest development project when that was proposed back in the 90's. There is a lot of available information already on the area, maybe not necessarily on the property except for what existed where The Kings College was.

Max Stach: Ok. We will provide you with a description of the methodology. We say that we are adjacent to the east Highlands Corridor Bio-Diversity area. Does that put us in another area?

Mr. Fink: No. It is within the Southern Wallkill Bio-Diversity plan. There are roughly 20 to 25 different areas that they have identified by name usually based upon a stream or a mountain range. They simply use that as a description of many characteristics of this particular area. That would be the one to look at when you look at the plan.

Max Stach: Ok.

Mr. Fink: They will tell you right in there what the importance is.

Bob Pollock: That has been helpful. Based on what you had just said, we have it covered in either studies that we have already done or in studies that are commissioned. We will present that to the Board to see if you agree.

Mr. Fink: Ok. If the Board wishes, you can adopt this as your Final Scoping Document tonight. I

don't think we are through the 60 days from the date of when the Draft Scoping Document was submitted. It does come up I believe right at the beginning of January. There is a requirement that if you conduct scoping that a Final Scoping Document be filed with all of the involved agencies. There is quite a number of involved and interested agencies on this project. If the Board decides that the Final Scoping Document is ready to be adopted tonight, then the Final Scoping Document would be filed with the applicant as well as with all of the agencies.

Mr. Astorino: Ted, you don't have any problem with that. Do you feel it is adequate?

Mr. Fink: Yes. I know that there are clarifications that need to be made. That could be done through correspondences afterwards on specific issues like the Southern Wallkill Bio-Diversity issue.

Mr. McConnell: The Conservation Board had raised a point in their comments, dated 12/16/09 that they suggested we do a site visit before completing the scoping. Given the time of year and the weather, it would be difficult to do. I think a site visit would be in order at some point. After that site visit, if we had seen something that should have been dealt with, how hard would it be to add to the Scoping Document at that point?

Mr. Fink: There is criteria for if and when you could add items to it. It would relate to an issue where there is new information something that we didn't know about previously. For example; say we go out there and find a mine right in the middle of an area where they want to put up a building, or if we had found a toxic waste dump or something like that, then we could add it. The SEQR regulations are very careful that once the Scoping Document has been defined that would be the direction the applicant would go with. He would have to make decisions based upon that.

Mr. McConnell: It would have to be significant new information.

Mr. Fink: Yes.

Mr. McConnell: Ok. I have no problem with that.

Mr. McConnell makes a motion to adopt the Final Scoping Document. (See attached).

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

Mr. Astorino: As far as the site visit goes, we will try to squeeze that in weather permitting. That might not happen until next year. We will be in touch with you on that.

Bob Pollock: On the site visit, would you want to see building corners staked out or painted?

Mr. Astorino: You could do that. That would be helpful.

Mr. McConnell: I would do something simple. I would go out there with a can of spray paint.

Mr. Astorino: It could be just general. It doesn't have to be exact.

Connie Sardo: Keep in contact with me when the weather clears on scheduling a site visit. I would then let the Board know about that at a work session.

Mr. Astorino: We will talk about it. Once we get some better weather, then we could schedule that.

Bob Pollock: Ok.

Mr. Astorino: We have a comment from the ARB, dated 12/16/09. We also have a comment from the Conservation Board, dated 12/16/09 for the record. Those are comments to keep in mind.

Bob Pollock: Ok. Thank you.

Nicholas Catinella

Application for Site Plan Approval for the construction and use of renovations to an existing single-family home located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 76 B 1 L 58; parcel located on 21 Cove Road 100 feet north of Sanders Lane, in the SM zone, of the Town of Warwick.

Representing the applicant: Nick Catinella, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Provide the following information on a revised plan as noted in the minimum plan requirements checklist:
 - o Location Map (portion of tax map)
 - o North arrow
 - o Reference to survey map (name of surveyor, license number, and date) which was copied on plan
 - o Location of well
 - o Location of septic system
 - o Location of any proposed outdoor lighting, type of luminaire and maximum wattage.
4. The applicant has altered the exterior of the existing dwelling by constructing supplemental walls all-around, supporting a completely replaced roof. Provide a calculation for the building footprint before and after construction and note these areas on the plan.
5. A raised deck on the lakeside of the house was replaced during construction. Note on the plan the offset from the shoreline before and after construction.
6. Schedule a sanitary sewage disposal system dye test with the Town Engineer's office.

The following comment submitted by the Conservation Board, dated 12/16/09:

Nicholas Catinella - CB has the usual concerns regarding the adequacy of the septic system and runoff from construction activities into Greenwood Lake.

The following comment submitted by the ARB:

Nicholas Catinella – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has provided the Planning Board with a short EAF. I have reviewed the SEQR regulations. This application meets the thresholds for a Type 2 Action. No SEQR action is required by the Planning Board. I have prepared a Resolution for a Type 2 Action.

Mr. McConnell makes a motion for a Type 2 Action.

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

617.6
State Environmental Quality Review (SEQR)
Resolution
Type 2 Action

Name of Action: Catinella House Renovations

Whereas, the Town of Warwick Planning Board is in receipt of a Site Plan application by Nicholas Catinella for a \pm 0.20865 acre parcel of land located at 21 Cove Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 11/24/09 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 a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(9) and, therefore, SEQR does not apply, and

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

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

Now Therefore Be It Resolved, that the Planning Board hereby declares that no further review under SEQR is required.

Comment #2: Applicant to discuss project.

Nick Catinella: I have renovated a house. I put a new roof on. I put up new walls. What happened was we came out a little bit from the existing walls. I used 2x6 for the walls.

Mr. Astorino: We have seen the pictures.

Nick Catinella: That is pretty much it.

Mr. Astorino: That was the reason before us. They went out by the 5-1/2" 2x6 and the sheathing on the outside. Is that correct?

Nick Catinella: Yes.

Comment #3: Provide the following information on a revised plan as noted in the minimum plan requirements checklist:

- Location Map (portion of tax map)
- North arrow
- Reference to survey map (name of surveyor, license number, and date) which was copied on plan
- Location of well
- Location of septic system
- Location of any proposed outdoor lighting, type of luminaire and maximum wattage.

Nick Catinella: Yes. There is outdoor lighting there now.

Mr. Astorino: That is just what is existing.

Nick Catinella: Ok.

Comment #4: The applicant has altered the exterior of the existing dwelling by constructing supplemental walls all-around, supporting a completely replaced roof. Provide a calculation for the building footprint before and after construction and note these areas on the plan.

Nick Catinella: Ok.

Comment #5: A raised deck on the lakeside of the house was replaced during construction. Note on the plan the offset from the shoreline before and after construction.

Nick Catinella: Ok.

Comment #6: Schedule a sanitary sewage disposal system dye test with the Town Engineer's office.

Nick Catinella: Ok.

Mr. Astorino: We need to add a comment #7, applicant to pay outstanding review fees.

Nick Catinella: Ok.

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

Mr. McConnell: Why in the repair you are using 2x6, turned them, and expanded it?

Nick Catinella: What we had done first was to try to block face the house. They stopped us from doing that. Zen and I discussed it. The idea was that I had a ledge there. I decided to fill in the ledge and put a facial stone on the outside.

Mr. McConnell: Ok.

Mr. Bollenbach: Does the applicant want to be set for a public hearing?

Mr. Astorino: Does it need a public hearing?

Mr. Bollenbach: Yes. There was construction done within a Designated Protection Area. We also need the results from the septic dye test.

Mr. Astorino: Ok.

Mr. Kowal makes a motion to set the Nicholas Catinella application for a Public Hearing at the next available agenda.

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

Connie Sardo: Nick, give me a call tomorrow at the Planning office. I will explain to you what you would have to do next.

Nick Catinella: Ok. Thank you.

Other Considerations:

1. **Lands of Mongelluzzo** – Letter from Kirk Rother, Engineer, dated 11/17/09 addressed to the Planning Board in regards to the Mongelluzzo Subdivision – requesting a 4th 6-Month Extension on Preliminary Approval of a proposed 2-Lot cluster subdivision, situated on tax parcel S 31 B 2 L 44.32; parcel located on the southeasterly side of Ackerman Road, 1200± feet off of the intersection of Kings Highway (C. H. 13), in the RU zone, of the Town of Warwick, County of Orange, State of New York. Preliminary Approval was granted on 11/21/07. *The applicant is currently in the process of securing NYSDEC stream-crossing permit approval.* The 4th 6-Month Extension becomes effective on, 11/21/09.

Mr. McConnell makes a motion on the Lands of Mongelluzzo application, granting a 4th 6-Month Extension on Preliminary Approval of a proposed 2-Lot cluster subdivision, SBL # 31-2-44.32. Preliminary Approval was granted on, 11/21/07. The 4th 6-Month Extension becomes effective on, 11/21/09.

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

2. **Marrone & Hamburger Lot Line Change** – Letter from John Ziobro, Esq., dated 11/20/09 addressed to the Planning Board in regards to Marrone & Hamburger Lot Line Change – requesting “***Re-Approval***” of Final Approval of a proposed Lot Line change, situated on tax parcels S 55 B 1 L 33.2 & 89; parcels located on the southern side of Old Mount Peter Road 700 feet northeast of Old Mount Peter Road and Route 17, in the RU/MT zones, of the Town of Warwick. Final Approval was granted on, 8/6/08. *The applicant’s attorney has stated that the reason for the delay was that the Marrones had a mortgage on their property and that the bank needed to release their lien on the property being transferred to the Hamburgers.* “Re-Approval” of Final Approval becomes effective on 8/6/09, subject to the conditions of Final Approval granted on, 8/6/08.

Mr. McConnell: Do you know if the bank has yet released that lien yet?

Connie Sardo: I know they are still working on it. I talked to Mr. Marrone the other day. He said that they are still working with the bank.

Mr. McConnell makes a motion on the Marrone & Hamburger application, granting “***Re-Approval***” of Final Approval of a proposed Lot line change, situated on tax parcels S 55 B 1 L 33.2 & 89; parcels located on the southern side of Old Mount Peter Road 700 feet northeast of Old Mount Peter Road and Route 17, in the RU/MT zones, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 8/6/08. The “Re-Approval” of Final Approval becomes effective on 8/6/09.

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

3. **Millers Ridge Subdivision** – Letter from Kirk Rother, Engineer, dated 11/25/09 addressed to the Planning Board in regards to the Millers Ridge Subdivision – requesting a 4th 6-Month Extension on Preliminary Approval of a proposed 16-Lot cluster subdivision + 1-Affordable Residential Lot + 1-Commercial subdivision and an application for special use permit for the 1-Affordable Home, situated on tax parcels S 51 B 1 L 7.41 & L 41; parcels located on the eastern side of Warwick Turnpike and 1500 feet south of NYS Route 94, in the RU zone, of the Town of Warwick. Preliminary Approval was granted on 12/5/07. *The applicant is in the process of obtaining OCHD approval, however, given the current economic conditions, the project is proceeding at a very slow pace.* The 4th 6-Month Extension becomes effective on, 12/5/09.

Mr. McConnell makes a motion on the Millers Ridge Subdivision application, granting a 4th 6-Month Extension on Preliminary Approval of a proposed 16-Lot Cluster subdivision + 1-Affordable Residential Lot + 1-Commercial Lot subdivision and an application for Special Use Permit for the 1-Affordable Home, SBL # 51-1-7.41 and 41. Preliminary Approval was granted on, 12/5/07. The 4th 6-Month Extension becomes effective on, 12/5/09.

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

4. **Douglas Tinnirello Subdivision** – Letter from Douglas Tinnirello, dated 12/1/09 addressed to the Planning Board in regards to the Tinnirello Subdivision – requesting a 6-Month Extension on Final Approval of a proposed 3-Lot cluster subdivision, situated on tax parcels S 49 B 1 L 56 & 45.42; parcels located on the southeast side of NYS Route 94 1000 feet southwest of Wawayanda Road, in the RU zone, of the Town of Warwick. Final Approval was granted on, 6/17/09. *The applicant is currently having financial difficulties and does not have the funds to have this process move forward at this time.* The 6-Month Extension becomes effective on, 12/17/09.

Mr. McConnell makes a motion on the Douglas Tinnirello Subdivision application, granting a 6-Month Extension on Final Approval of a proposed 3-Lot cluster subdivision, SBL # 49-1-56 & 45.42. Final Approval was granted on, 6/17/09. The 6-Month Extension becomes effective on, 12/17/09.

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

5. **Michael Buono Subdivision** – Letter from Gail Feragola from Lehman & Getz, dated 12/14/09 addressed to the Planning Board in regards to the Buono Subdivision – requesting “*Re-Approval*” of Final Approval of a proposed 2-Lot 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, County of Orange, State of New York. Final Approval was granted on, 11/19/08. *The applicant is currently in the process of satisfying the conditions of final approval which are almost completed, but need a small amount of time to finalize the conditions of final approval.* Re-Approval of Final Approval becomes effective on, 11/19/09, subject to the conditions of final approval granted on, 11/19/08.

Mr. McConnell: Mr. Chairman, I noticed that this application has additional language that the previously ones didn't have. It says subject to the conditions of final approval granted on, 11/19/08. My assumption has been that all of them are still subject to the conditions of final approval granted. Are they not?

Mr. Astorino: I would assume. I think they have not satisfied all of the conditions at this time.

Connie Sardo: They are getting close.

Mr. Astorino: They are still working on some items.

Mr. McConnell: It is my understanding that none of these have satisfied all of the conditions of final approval.

Mr. Bollenbach: Dennis, if you take a look at the first application tonight, the Mongelluzzo application, that was simply for an extension on the Preliminary Approval. If you take a look at the second application tonight, the Marrone & Hamburger application, that was for a Re-Approval. The Re-Approvals are subject to the conditions of the Final Approvals where they would still have to be satisfied, whereas the extensions are different.

Mr. McConnell: Whereas the extensions are different from the Re-Approvals. Ok. Thank you.

Mr. McConnell makes a motion on the Michael Buono Subdivision application, granting "**Re-Approval**" of Final Approval of a proposed 2-Lot 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, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 11/19/08. The "Re-Approval" of Final Approval becomes effective on, 11/19/09.

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

6. **Adele Grill Subdivision** – Letter from Adele Grill, dated 12/15/09 addressed to the Planning Board in regards to the Grill Subdivision – requesting a 6-Month Extension on 2nd Re-Approval of Final Approval of a proposed 4-Lot cluster subdivision, situated on tax parcels S 29 B 1 L 71 & L 72; parcels located on the westerly side of Distillery Road 750 feet north of Pine Island Turnpike, in the RU zone, of the Town of Warwick. The 2nd Re-Approval of Final Approval was granted on 7/15/09 and became effective on 5/7/09. *The applicant is requesting the 6-month extension due to the depressed economy and the very tight, often impossible lending policies.* The 6-Month Extension on the 2nd Re-Approval becomes effective on, 11/7/09.

Mr. McConnell makes a motion on the Adele Grill Subdivision application, granting a 6-Month Extension on 2nd Re-Approval of Final Approval of a proposed 4-Lot cluster subdivision, situated on tax parcels S 29 B 1 L 71 and L 72; parcels located on the westerly side of Distillery Road 750 feet north of Pine Island Turnpike, in the RU zone, of the Town of Warwick. The 2nd Re-Approval of Final Approval was granted on 7/15/09 and became effective on, 5/7/09. The 6-Month Extension on the 2nd Re-Approval of Final Approval becomes effective on, 11/7/09.

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

7. **Planning Board Minutes of 11/18/09** – Planning Board Minutes of 11/18/09 for Planning Board Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 11/18/09.

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

Correspondences:

1. Letter from Superintendent of Tuxedo School District, Joseph Zanetti, dated 12/7/09 addressed to the Planning Board in regards to the Watchtower Bible and Tract Society/World Headquarters Scoping Document.
2. Letter from Mike Santoianni, dated 11/30/09 addressed to the Planning Board in regards to the Watchtower Bible and Tract Society/World Headquarters Scoping Document.

Mr. Astorino: Those correspondences in regards to the Watchtower application, we have them in our packets.

Privilege Of The Floor For Agenda Items!!

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

Mr. Showalter makes a motion to adjourn the December 16, 2009 Planning Board meeting.

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