

TOWN OF WARWICK PLANNING BOARD  
December 17, 2008

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

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

**Review of Submitted Maps:**

***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 11/5/08 Planning Board meeting. *Planning Board to discuss DEIS completeness.*

Representing the applicant: Max Stach, Principal Planner from Turner Miller Group.

The following comment submitted by the Conservation Board, dated 12/17/08:

Warwick Views, LLC. – CB has no further comments.

The following comment submitted by the ARB, dated 12/17/08:

Warwick Views, LLC. – Comments received and provided to the applicant.

Mr. Astorino: Ted, do you want to give us a rundown on this matter?

Mr. Fink: Yes. Where this project stands, we are in the very early stages of the SEQR review process. The Planning Board has been acting as Lead Agency. The Planning Board had previously adopted a Final Scoping Document. The applicant had prepared a preliminary Draft EIS. It was submitted to us for our review. Both Tectonic and my firm had done a completeness review judging the document against the Final Scoping Document adopted by the Planning Board back in December 2006. We had previously discussed this. The applicant had asked to have a meeting with us to discuss both Tectonic's comments and my comments on this project. We had a meeting with

Kristen, Stuart Turner, and Kirk Rother. We went over some of the comments that we had. They were looking for clarification on those comments. We provided that to them. We do have both Tectonic and my review comments. Our recommendation was to deem the preliminary DEIS incomplete at this time. We are to provide a list of all the deficiencies that the DEIS needs to be corrected for compliance with the Final Scoping Document. In your packets is a Draft Resolution determining the Draft EIS Incomplete. Attached to that resolution are Tectonic's comments and my comments. They have provided the engineering completeness review.

Mr. Showalter makes a motion on the Draft EIS Incomplete.

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

617.9(a)(2)

**State Environmental Quality Review (SEQR)  
Resolution Determining Draft EIS Incomplete  
Warwick Views Subdivision**

**Whereas**, the Town of Warwick Planning Board is in receipt of Subdivision and Special Use Permit applications by Warwick Views LLC to develop a ± 249.9 acre parcel of land as a 53 lot residential cluster subdivision, and

**Whereas**, the overall development parcel is located north of Bloom Corners Road, southwest of Pine Island Turnpike and the Hamlet of Edenville in the Town of Warwick, Orange County, New York, identified on the Orange County Tax Maps as Section 27, Block 1, Lots 41.131, 47 and 48.1 and is currently zoned in the Rural Zoning District (RU), and

**Whereas**, the Planning Board, after duly circulating the project's application and Environmental Assessment Form (EAF) to all Involved Agencies, was designated the SEQR Lead Agency for the review of the proposed development on July 7, 2006, and

**Whereas**, having reviewed the potential environmental effects of the proposed project, as identified in the EAF, the Planning Board issued a Positive Declaration for the project on August 2, 2006, requiring the applicant to prepare a Draft Environmental Impact Statement (EIS), and

**Whereas**, the Planning Board conducted a public Scoping Session on October 4, 2006 to identify each relevant issue to be studied in the Draft EIS and adopted a Final Scoping Document on December 6, 2006, and

**Whereas**, a Draft EIS was submitted by the applicant and accepted for review by the Planning Board on September 17, 2008, and

**Whereas**, the Planning Board is in receipt of memoranda from the Town Planner and Town Engineer, recommending that the Draft EIS not be accepted as complete at this time.

**Now Therefore Be It Resolved**, that the Planning Board, after conducting its own independent analysis of the completeness issue, has determined that the Draft EIS is inadequate for public review because it does not contain all of the information required by the Final Scoping Document, as detailed in memoranda from the Town Planner and Town Engineer and attached to this Resolution as Attachment "A" and hereby directs the applicant to revise the Draft EIS in accordance with Attachment "A", the Final Scoping Document, and any other issues related to completeness identified by Planning Board members, and

**Be It Further Resolved**, that the Planning Board will review a resubmitted Draft EIS at such time as the applicant has complied with all of the identified deficiencies.

#### MEMORANDUM

**To:** Benjamin Astorino, Chairman  
Town of Warwick Planning Board

**From:** J. Theodore Fink, AICP

**Date:** 1/25/09

**Subject:** Warwick Views Subdivision Draft EIS Completeness

**Applicant:** Warwick Views, LLC

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The proposed Draft Environmental Impact Statement (DEIS) for the above captioned project, prepared by the Turner Miller Group and dated August 27, 2008, has been reviewed for completeness. We have used the Final Scoping Document, dated December 6, 2006, to ascertain whether this document is complete with respect to its scope and content for the purposes of commencing public review.

In our view, the proposed DEIS is not as yet complete and our recommendation is that it should not be accepted by the Planning Board for public review at this time. Our reasons for recommending that the document be deemed incomplete are provided in detail below. We recommend that these comments be used together with the Town Engineer's comments and any other comments that Planning Board members may have on the completeness issue in formally adopting a "Resolution Determining DEIS Incomplete." I have prepared such a resolution in draft form for the Board's consideration.

General standards by which we review a DEIS for “completeness” are as follows:

- Does the DEIS address all of the issues identified by the Planning Board in the Final Scoping Document?
- Does the information provided in the DEIS follow the format directed by the Planning Board’s Final Scoping Document?
- Does the content of the DEIS provide a sufficient level of detail on the range of issues identified in the Planning Board’s Final Scoping Document to enable involved and interested agencies and the public to make informed judgments, including information necessary for involved agencies to make their own findings on the action?
- Has the information provided in the DEIS been presented clearly to facilitate review by involved and interested agencies and the public (i.e. simple language, visual material, summaries of technical studies/appendices for lay people, etc.)?

The submitted DEIS does not provide all of the information required by the adopted Final Scoping Document. In addition, the DEIS does not adequately discuss and justify many of the critical assumptions included in the evaluations, many of which are simply stated as assertions.

This is a completeness review only. With the exception of a few inconsistencies that are discussed herein and must be addressed for clarity, technical issues will be addressed in our technical review once the proposed preliminary DEIS has been revised, reviewed again for completeness, and eventually accepted as complete by the Planning Board.

## I. EXECUTIVE SUMMARY

1. A fundamental requirement of the DEIS is that a subdivision plan or plans will be presented for review as part of the document. A set of full scale subdivision plans (at a scale of 1” = 250’) was provided to this office together with the DEIS. However, reduced copies of the plans in the DEIS was not provided, as required. In addition, the 1” =250’ scale is unconventional. All plans to be provided must be in a form that can be readily interpreted and verified by reviewers using a standard engineer’s scale (i.e. 1”=10’, 1”=20’, 1”=30’ and so on). Also, the Yield plan presented as a reduced scale plan, in the DEIS’s Figure II-3, indicates that it is at a scale of 1”=100 ft. This is not the case and needs to be corrected.
2. The Site Context map is missing from the full scale plans and there is no reduced scale map provided in the DEIS.
3. The location of the project, including surrounding roads, is missing from the DEIS Cover Sheet.
4. A place for the future insertion of the date, time and place of the DEIS Public Hearing is missing from the DEIS Cover Sheet.
5. Page numbers are not provided in the Table of Contents.
6. The environmental impact issues for which the applicant submitted plans and data, all SEQR documents (including Full Environmental Assessment Form, Positive

Declaration/Circulation Notice, Final Scoping Document, technical letters from involved and interested agencies) proposed mitigation measures, and correspondence prior to the Planning Board's Positive Declaration nor following it, has not been provided as an Appendix nor anywhere else in the DEIS. There is no summary of the materials nor reference to them included in the DEIS.

7. In the Executive Summary description of Vegetation and Wildlife, it is stated that the "on-site wetland which exists is not of significant wildlife value..." This statement is disingenuous. All wetlands have some wildlife value. According to the State's Freshwater Wetland regulations *Wetlands are of unparalleled value as wildlife habitat, and the perpetuation of scores of species depends upon them.* [6 NYCRR 664.3(b)(2)] Wildlife were observed in or adjacent to the wetland, as described in Appendix B. This statement should be removed, qualified as an opinion of the applicant, or restated in a more accurate manner.
8. The classification of the wetland (i.e. Class I, Class II, etc.) is missing in the Summary and elsewhere in the DEIS.
9. In the Executive Summary description of Vegetation and Wildlife, it is stated that "no significant habitats exist on the project site." But later in this section, it is also stated that "there is potential for a Indiana Bat habitat..." These statements are in conflict with each other and need to be resolved.
10. In the 5<sup>th</sup> paragraph on page I-3, there is a typographical error.
11. There are corrections which will need to be made to the sections on Land Use and Zoning, Police, Fire and Emergency Medical Services, School District Services, Fiscal Impact Analysis, Utilities-Water, Utilities-Wastewater, and Other Utilities to be consistent with changes that need to be made in the full sections of the DEIS as per the comments provided below.
12. The DEIS states that a standard residential subdivision was considered in the Alternatives Summary. However, a conventional (i.e. standard) subdivision of the property would be required to have all lots at least four (4) or more acres in size, not the three (3) acres as indicated. Only cluster subdivisions receive a bonus density at a density of one unit per three (3) acres. If the Yield Plan is to be presented as an alternative, it must be clearly stated that it is not in compliance with the minimum lot area and other bulk requirements of the Zoning Law and would require a significant number of variances to be granted by the Zoning Board of Appeals in order for it to be considered by the Planning Board. This needs to be addressed.
13. In the 9<sup>th</sup> paragraph on page I-4, there is a typographical error.
14. Table I-1 will need to be corrected to be consistent with changes made to the alternatives sections as described below.
15. All six alternatives presented need to be provided in the comparative matrix in Table I-1 and/or in the Alternatives section of the DEIS.

## II. DESCRIPTION OF THE PROPOSED ACTION

## A. Site Location and Description

16. A written and graphic description of the location of the project site in the context of the Hamlet of Edenville has not been provided.
17. Zoning designations and land uses within a ½ -mile radius of the site have not been provided. Moreover, the “Existing Land Use Map” that appears as Figure III-3 only shows surrounding land use within 175 feet of the site. This distance doesn’t even meet the minimal distance of 500 feet required by the Zoning Law for a variety of information that is to be shown on the Existing Resources and Site analysis Plan.
18. On the proposed cluster plan, 15 of the proposed house lots are shown outside of the Potential Development Areas identified in the 4-step process. This must be corrected. In this regard, the house lots are spread out in a sprawling manner, even though community water has been proposed. In such a situation, there is greater flexibility for designing the proposed subdivision plan in a more compact form. For example, 11 of the proposed 53 lots are 1.5 or more acres in size. The Zoning Law allows lots to be as small as 12,500 square feet in size, encourages the use of community septic systems, and allows the septic system leach fields to be placed in the protected open space in an effort to maximize open space preservation. In my opinion, the current cluster plan does not show due consideration for the intent and purposes of the cluster regulations (see also other comments on intent and purposes of the Zoning Law and cluster regulations elsewhere in this Memorandum).
19. The resources of significance, as outlined in § 164-41.1.E(2) of the Town Zoning Law, have not all been included. Prime farmland and statewide significant soils need to be clearly identified, in addition to the other missing information.
20. A description of the infrastructure serving the project site and/or its immediate environs including site access and the road network within a one-half (½) mile radius of the site has not been provided.
21. The description of the action was to have included a description of the proposed Subdivision Plan’s conformity to the Town Zoning Law and Subdivision Regulations in narrative and graphic forms. This section is largely missing. What was required to be provided (list below is partially repeated from the Final Scoping Document for those items missing) was to include a written and detailed description of the proposed action, including the proposed use, all proposed project components and site amenities, and all information required by the Town of Warwick Zoning Law and Subdivision Regulations, including, but not limited to:
  - *Acres of open space to be protected, use of open space, and description of the method of open space preservation. Include the acreage of the proposed open space that is already restricted due to freshwater wetlands, streams, unsuitable soils for septic systems or development (from § 137, Appendix A of the Town Code) or are subject to other natural resource constraints.*
  - *Number and type of dwelling units.*

- *Landscaping and site amenities to be provided.*
- *Acres of proposed impervious surfaces.*
- *On-site grading activities for road and house lot construction activities.*
- *Vehicular circulation system.*
- *Entrances onto local roads.*
- *Pedestrian circulation and amenities such as sidewalks, potential pedestrian and/or bicycle connections to adjoining lands (especially Luft Farm), and bicycle lanes or bicycle-compatible roadways within the subdivision.*

*This section will include a point-by-point description of how the proposed subdivision plan complies with or is inconsistent with the Agricultural Protection Overlay District (AP-O) guidelines for design of house lots found in § 164-41.1.H of the Zoning Law.*

*The yield plan required for establishing a lot count in the proposed cluster subdivision will address the following:*

- *DEC identification number for stream*
  - *Justification for placement of septic systems in soils not suitable for septic systems*
  - *Percolation and deep test pit information for each lot using the Environmental Control Formula found in § 164-41.3*
22. The description of utilities on page II-1 does not include a description of whether the proposed community water supply system can accommodate any of the other proposed developments in the surrounding area.
  23. The description of utilities on page II-1 does not include a description of a community septic system.

#### **B. Project Purpose, Need and Benefits**

24. The objectives of the project sponsor consists of one sentence on page II-2. The terse statement provided does little to inform the reader of the sponsor's intents. What is the intent for the open space areas? What deed restrictions will be imposed on the lots? What style, size, type of house is to be offered? What target market does the applicant wish to capture? What landscaping is to be provided? What will the community water system consist of? How much site grading will be involved for the roads and structures? Will there be amenities such as swimming pools, tennis courts etc. provided? Will there be garages provided? If so, will they be attached, detached? Where will they be located? Are there building elevations available for review by the Town Architectural Review Board? How is stormwater runoff being handled? These are just a few of the questions that should be addressed.
25. The public need for the proposed action, including its social and economic benefits to the community, has not been provided. A conclusory statement has been provided merely stating that the subdivision will "meet some of the increased demand in the region for single family housing" and affordable housing. This needs to be more fully explained.
26. There is no discussion of the targeted demographic nor the size, scale, and potential market for the proposed dwellings. The proposed four affordable housing units also be discussed in terms of size, scale, and potential market.

27. This section does not provide a statement of consistency with adopted policies and/or plans set forth within the Town *Comprehensive Plan* and the recently adopted and approved *Community Preservation Project Plan*. A conclusory statement has been provided merely stating that “the applicant believes the plans conform” with the “adopted plans and ordinances of the Town.” The Town doesn’t have a Zoning “ordinance” but a Zoning Law. This must be corrected. There must be evidence provided to substantiate the claims made.

### C. Construction and Operation

28. The expected year of project completion is missing.
29. The construction periods and phasing including a flowchart for the maximum anticipated duration, the start and completion of key milestone tasks such as site clearing, grading and fill placement, infrastructure, foundations, and site amenities is missing.
30. The DEIS states that construction activities are likely to be ongoing after portions of the subdivision are placed into use and that a safety plan is not needed. However, this doesn’t address the Scoping Document’s requirement to prepare a safety plan. Will all of the regrading be completed for the proposed roads prior to occupancy of the site? How will heavy equipment be transported to and from the site and how will they be routed on Town roads?
31. The proposed management of the open space areas is missing. Who will hold the conservation easements? What is the likelihood of farming continuing on the proposed Lot 53 given that most of this lot is the State Protected Wetland?
32. How will open space be protected on the lands to be owned by the HOA? If these lands are in a separate lot, then it needs to be identified as such. There is no lot number associated with these lands. What does “to the benefit and enjoyment of all residents of the proposed subdivision” mean? Will there be recreation provided like a trail or other facility? Will all owners of the subdivision have access to these lands and if so how?
33. The Final Scoping document requires that “equal weight” be given to individual and community septic systems but the DEIS states simply that “No community septic or sewage treatment will take place on site.” This needs to be corrected.

## III. EXISTING SETTING, POTENTIAL ENVIRONMENTAL IMPACTS AND PROPOSED MITIGATION MEASURES

### A. Soils and Geology

34. There are two typographical errors in the 1<sup>st</sup> paragraph on page III-2.
35. There is a typographical error in the 7<sup>th</sup> paragraph on page III-2.
36. There is a typographical error in the 15<sup>th</sup> paragraph on page III-2.
37. The mapping of soils identifies the presence of RMC and RMD soils but there is no discussion of these soil’s characteristics.
38. If any of the on-site soils are classified as Soils of Statewide Significance, then they need to be identified. If none are present, then a statement to this effect needs to be provided.

39. A Table of on-site soils identifying construction limitations, permeability, depth to bedrock, and seasonal high water table for each soil, using both the Soil Survey information as well as information found in § 137, Appendix A of the Town Code has not been provided.
40. There is no discussion of existing rock outcrops.
41. The discussion of karst conditions does not provide evidence to support its conclusion that “There are no known karst conditions...on the site.”
42. There is a grammatical error in the 2<sup>nd</sup> paragraph on page III-3.
43. There is no discussion of potential soil erosion based on soil type.
44. Blasting is stated as “likely” but there is no discussion of areas of possible blasting and material quantities.
45. The discussion of a blasting plan (if blasting was necessary) was required to include blasting methods and minimization, a blast monitoring and safety plan, and measures to be implemented to protect existing structures or nearby residential groundwater wells, if any are located near blasting locations. However, the discussion concludes that “Blasting measures will include the preparation of a blasting plan...” This needs to be corrected.

**B. Water Resources**

46. The State classification of on-site and adjacent wetlands has not been provided.
47. There is no discussion of Federal Jurisdictional Wetlands nor mention of compliance with Nationwide Permits or Jurisdictional Determinations by the US Army Corps of Engineers.
48. There is no discussion nor indication that State verification of the DEC field delineation of the wetlands has occurred. This is provided as a stamped and signed verification by DEC staff on a wetlands map to conclusively illustrate the State Protected wetland area.
49. There is no discussion of the impacts of the State wetland disturbance. How will the disturbance effect wetland functions and values? What alternatives exist to wetland removal? What measures can be used to avoid or minimize such impacts? Has an evaluation been made of the State’s compatibility criteria to determine whether such impacts are “usually compatible,” “usually incompatible,” or “incompatible” with the procedural requirements found in 6 NYCRR 663.4(d)?
50. How is the existing farmstead supplied with water if “Groundwater is not currently being utilized on the Project Site.” as stated on page III-5?
51. The Aquifer Impact Assessment in Appendix G needs to be summarized to address the requirements for a discussion of the presence, extent, and present use of groundwater resources as well as the characteristics of the aquifer, including but not limited to its thickness, material composition, and whether it is confined or unconfined.
52. As required by the Scoping Document, there is no discussion of *“The ability of on- and/or off-site receiving waters to assimilate additional runoff will be evaluated. The volume of sediment, nutrients and other pollutants that could adversely affect these surface waters, including both construction-related pollutants as well as pollutants that can be expected to be generated by roads, driveways, rooftops, lawns, and landscaping will be estimated and associated impacts evaluated. Calculate pollutant loading for both pre- and post- development for the following pollutants (see pages 2-3 of the DEC Stormwater Management Design Manual) and present for review : BOD, COD,*

TSS, TDS, total phosphorus, total nitrogen (including Nitrates/nitrites), lead, copper, zinc and cadmium. The Simple Method (Scheuler, T. 1987. *Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs*. Metropolitan Washington Council of governments, Washington, D.C.) or a comparable professionally accepted method, may be used for this purpose, but the same method must be used for all calculations. Results should be presented in tabular form so that pre-development pollutant load can be compared to post-development load. Oil and grease and chlorides (i.e. road salt) are other common constituents of stormwater runoff that will also be considered during impact assessment.”

53. There is no discussion of potential impacts to stream and wetland areas in the Long Meadow Wetland Complex.
54. There is no discussion of potential long-term impacts on surface waters relative to the habitation of the site.
55. There is no discussion of compliance with applicable wetlands regulations.
56. There is no discussion of creation of a public water supply.

### C. Vegetation and Wildlife

57. There is no inventory of the representative flora and fauna for on-site ecological communities by a qualified biologist.
58. There is no discussion of the Southern Wallkill Biodiversity Plan.
59. There is no indication in the text that the applicant’s consultants made contact with NY Natural Heritage Program staff nor review of the U.S. Fish and Wildlife Service’s database.
60. There is no indication in the text that there was a “*Biodiversity assessment of the site and its interrelationship to the identified “Bloom Corners Swamp and Uplands.”<sup>1</sup> Use the methodology outlined in the Southern Wallkill Biodiversity Plan for conducting the assessment.*”
61. There is a typographical error in the last paragraph on page III-7.
62. There is a typographical error in the 1<sup>st</sup> paragraph on page III-8.
63. There is no discussion of the flora and fauna associated with the on-site stream.
64. There is a grammatical error in the 1<sup>st</sup> sentence of the last paragraph on page III-9.
65. The discussion of the flora and fauna found in the wetland on page III-10 concludes that “This is not a deep emergent wetland or other high quality wetland that would sustain significant populations of fish, amphibians, reptiles or waterfowl in need of protection.” However, there is no discussion of the fish, amphibians, reptiles or waterfowl that would be affected by the loss of wetland areas nor indirectly by construction activity.
66. There is no discussion of “*impacts on biodiversity resulting from development of a large land holding including the cumulative development of other nearby parcels that are under review by the Town of Warwick, and the resulting effects on wildlife populations and plant species.*”
67. There is no discussion of the “*reduction of function of existing plants and vegetative communities as well as habitats for wildlife species.*”

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<sup>1</sup> The Southern Wallkill Biodiversity Plan identifies this area as an “important wetland-upland complex...home to some very important declining, range-edge and state-listed amphibian and reptile species. Maintaining connectivity is important for these species, so special attention should be paid to the tenuous connections.”

68. There is no discussion of “*the amount of existing vegetative cover likely to be modified and the nature of that modification (e.g. pavement, landscaping, etc.), including wetland disturbance and/or reduction and fragmentation of habitat supporting on-site wildlife will be identified for each vegetative community. Potential impacts associated with a reduction of existing vegetative cover and existing habitats and impacts on trees will be discussed.*”
69. There is no discussion of the “*Impacts of the proposed project on deer population will be determined by a qualified biologist, including the consequences of this potential impact on vegetation (both existing and proposed landscaping) as well as other wildlife.*”
70. There is no discussion of applicable mitigation measures identified as necessary or recommended in the *Southern Wallkill Biodiversity Plan*.
71. There is no discussion of “*increasing the amount of protected open space beyond the proposed 62.5 percent, establishment of generous vegetative buffers around streams and wetlands, the adoption of landscaping schemes which focus both on the use of native vegetation and the enhancement of species diversity on the site, habitat improvements, and the avoidance and/or salvaging of any trees of significance.*”

#### **D. Cultural Resources**

72. According to the Cultural Resource Survey in Appendix C, there was a total of 94 acres surveyed on-site by the project’s archaeologist. The site consists of a 249.9 acre site. What areas were surveyed? A map must be provided to illustrate the Area of Potential Effect (APE).
73. There is no discussion of historic agricultural activity on the site.

#### **E. Visual**

74. The visual impact assessment uses existing photographs of the site but fails to include a post development photographic impact assessment. The title of Appendix D is “Visual Impact Photos.” Yet, there are no photos that show visual impacts.
75. There is no discussion of the visual relationship between the project site and the hamlet of Edenville and the surrounding residential area, particularly with respect to adjacent properties and remote locations where the proposed development might be visible, such as scenic areas and scenic roads identified in the *Warwick Comprehensive Plan*.
76. There is no discussion or analysis that uses the methodology described in the DEC publication entitled *Assessing and Mitigating Visual Impacts* (see Program Policy DEP-00-2, July 31, 2000).
77. There is no discussion of the siting guidelines for the Agricultural Protection Overlay District (AP-O) nor how the proposed development complies with such guidelines.
78. There is no discussion of road lighting.
79. There is no discussion of the project’s potential effects on the rural character of the area.
80. There is no discussion of the project’s visibility from Newport Bridge Road.
81. There is a statement that “The applicant will work with the Planning Board during the review process to come to determine what is appropriate.” in terms of building materials and colors. That review process has begun; it is incumbent upon the applicant to develop

a proposal that is consistent with the Town's Design Guidelines and Zoning Law that the Planning Board can review as part of the DEIS.

#### **F. Transportation**

82. There is no analysis nor discussion of accident data for the preceding five year period for the studied intersections.
83. There is no discussion of pedestrian and bicycle movements in the area nor potential linkages with adjoining lands and the Hamlet of Edenville.
84. The applicant provides no rationale for why sidewalks are not appropriate as stated on page III-17. Section 137-19.Q of the Subdivision Regulations requires that "*Subdivision designs shall indicate consideration for suitable protection of different types of land uses and the segregation of vehicular and pedestrian traffic where desirable. The pedestrian walk network, whether independent or combined with the vehicular road network, shall conveniently link dwellings to all possible generators of pedestrian traffic both within and outside of the subdivision, including, but not necessarily limited to, parking areas, recreation areas, school, stores, bus stops and other walks. Such walks shall be so designed and constructed as to encourage their use by their proximity to generators of traffic, convenient arrangement, evenness and durability of surface, pleasant appearance and exposure to scenic areas and views. Where sidewalks cross driveways, they shall be reinforced and of the same material and elevation as that on both sides of such driveways.*" .
85. The statement on page III-17 that "Sidewalks...are not required" is incorrect. The Subdivision Regulations at § 137-11.A(1)(c) requires sidewalks unless the Planning Board specifically waives or modifies this requirement by resolution. This needs to be corrected.
86. There is a typographical error in the 5<sup>th</sup> paragraph on page III-17.
87. There is no discussion of potential impacts to the road network, such as the numbers of vehicles generated by the development and the levels of service at affected intersections.
88. There is no discussion of potential impacts on community character and quality of life for neighborhood residents.

#### **G. Land Use and Zoning**

89. This section of the DEIS contains a number of conclusory statements about compliance with the Town's planning and zoning documents. This needs to be corrected to include an analysis and discussion of how the proposed project complies with such policy and regulatory documents.
90. There is no discussion of the existing land uses and zoning designations within ½ mile of the site.
91. There is no discussion of the reasons why the proposed project site was included in the Town's adopted *Community Preservation Project Plan*.
92. The DEIS does not analyze consistency of the proposed project with the Town's Zoning Law, especially the AP-O District siting guidelines.
93. The DEIS does not analyze consistency of the proposed project with the Town *Comprehensive Plan* nor *Town Design Guidelines*. There is no discussion of whether any aspects of the proposed action would deviate from conformance with the Town or County plans nor an evaluation of why such deviation is proposed. For example, the *Town Design*

Guidelines goals presented in the DEIS include such factors as: a) *“Garages should not be a dominant feature on the house.”* However, the dwellings illustrated on the proposed Subdivision Plans show that the garages will be a dominant feature of the dwellings; b) *New developments should be landscaped to provide visual interest in all four seasons.”* However, no landscape plans are presented nor are they discussed; c) *Street trees should be incorporated into new developments.”* There are no indications of whether street trees will be provided even though they are required by the subdivision Regulations and just as with sidewalks, a waiver must be approved by the Planning Board by resolution if they are not to be provided; and d) *“Homes should be designed that are compatible with Warwick’s vernacular and the surrounding architectural character should be upheld.”* Yet, no building elevations are presented in the DEIS to substantiate the claims made in the Potential Impacts section of the DEIS.

94. There is no discussion of soil fertility. Stating that “It can be assumed...that soils in this general vicinity are viable agricultural soils.” does not constitute a discussion of soil fertility. This information is readily available from the Orange County Soil Survey.
95. There is no discussion of previous crop and/or animal production on the site.
96. There is no discussion of the proposed project’s compatibility with surrounding agricultural land uses.
97. There is no analysis of what percentage of the proposed open space is undevelopable lands such as wetlands, wetland buffers, and steep slopes or other unsuitable soils.
98. There is no discussion of the continued agricultural viability of lot 53, which includes only 20 acres of the original farm.
99. There is no discussion of the proposed project’s compliance with the intent and purposes of the Zoning Law and cluster regulations.
100. There is no discussion of the need for and justification of waivers, based upon the procedures found in § 164-74.1 (waivers) for all areas where the proposed subdivision plans do not meet the design guidelines, design standards, or subdivision standards.
101. There is no discussion of compliance of the yield plan with the Town Subdivision Regulations.
102. The reference on page III-21 in the 3<sup>rd</sup> paragraph to “Adequate vegetative buffers will be provided between any agricultural or farming activities and residential dwellings.” must be corrected to state explicitly how many feet constitutes “Adequate.”
103. The reference on page III-21 in the 7<sup>th</sup> paragraph to affordable housing restrictions being placed on the subdivision plat needs to be corrected to include the deed for the four lots.
104. The final paragraph on page III-21 needs to be corrected to refer to Subdivision Plan, not “site plan.”
105. The statement in the final paragraph on page III-21 to “Residents will be further advised of all potential impacts...” of farms needs to state how.

#### **H. Police, Fire and Emergency Medical Services**

106. There is no discussion nor correspondence indicating that the applicant engaged in any conversations with service providers.
107. There is no discussion of any existing deficiencies in staffing or facilities.

- 108. There is no discussion of existing water supply for fire protection.
- 109. There is a typographical error in the 4<sup>th</sup> paragraph on page III-23.
- 110. There is a grammatical error in the last paragraph on page III-23.
- 111. There is no discussion of the capacity of the water supply system to meet future fire demands of the proposed project.

**I. School District Services**

- 112. The 2006 “Burchell, Listokin and Dolphin” multiplier used to calculate the “Potential School Child Generation” in Table III-6 is incorrect. The correct multiplier for a 4 bedroom single family detached dwelling valued over \$329,500 is 1.05. The 0.87 figure provided understates the total number of school age children to be generated by the proposed subdivision. This needs to be corrected.
- 113. There is no indication that the applicant engaged in conversations with or received correspondence from the School District. Any “Personal communications,” as identified in Footnote 3 on page III-24, need to be disclosed in the DEIS.
- 114. There is a typographical error in the last paragraph on page III-24.
- 115. There is no discussion of relevant studies regarding School District capacity and enrollment trends nor the use of Warwick School District data for school age children generated. Local School District data would be more accurate than reliance solely on the 2006 “Burchell, Listokin and Dolphin” multipliers. Any differences should be discussed along with their implications for potential impacts.

**J. Fiscal Impact Analysis**

- 116. The costs to the School District need to be recalculated based upon the use of local School District data and/or the corrected 2006 “Burchell, Listokin and Dolphin” multipliers.
- 117. There is no discussion of the need for mitigation for the potential impacts on the School District, which have been projected to have a net negative fiscal impact of -\$101,517, but which will likely increase after recalculating the impact using corrected school age children multipliers.

**K. Recreation and Open Space Resources**

- 118. There is no discussion of whether any on-site recreational amenities are proposed.
- 119. The DEIS and proposed Subdivision Plans indicate that conservation easements will be used to preserve open space but on page III-30, it is stated that restrictive covenants will be used to protect open space. This needs to be clarified and a discussion of how the restrictive covenants will permanently protect the open space needs to be provided. This should include a discussion of what measures will be used to ensure that any restrictive covenants, that are placed on the lots, cannot be nullified by subsequent agreement of all owners.
- 120. There is no discussion of the Town’s adopted *Community Preservation Project Plan* recommendations for open space or recreation for the site.

**L.      Utilities—Water**

**M.      Utilities—Wastewater**

121.    The assessment of completeness of the DEIS with respect to water and wastewater utilities is respectfully deferred to the Town Engineers.

**N.      Other Utilities**

122.    The statement on page III-33 that “Infrastructure upgrades are anticipated to be necessary [after 2010] in this region to maintain the adequacy and reliability of the grid.” is insufficient to assess impact. The traffic study uses a 2012 “build” year to project traffic generation. Other than that reference, the DEIS does not discuss the anticipated year of project completion as required. The question of the adequacy and reliability of the grid to support the proposed project after 2010 has not been addressed.
123.    There is no discussion describing the need for improvements to the electrical grid.

**IV.    ADVERSE UNAVOIDABLE SIGNIFICANT ENVIRONMENTAL IMPACTS IF PROJECT IS IMPLEMENTED**

124.    The three potential impacts identified as “Adverse Unavoidable” section is not complete and is inconsistent with Section III of the DEIS. Any changes made to Section III as a result of these and other DEIS completeness comments needs to be updated.

**V.      ALTERNATIVES**

125.    A comparative assessment of the impacts of all alternatives has not been provided. The Table I-1 provided in the Executive Summary does not compare the impacts of all alternatives as required by the Final Scoping Document.

**A.      No-Build Alternative**

126.    In the No Action alternative, it is stated that the “benefits of the Proposed Action would not be realized.” By the No Action Alternative. However, three factors are presented as evidence of the purported benefits including “additional tax revenues will be generated.” The fiscal impact analysis shows that there will be a negative fiscal impact of the project. “No roads will be constructed, and drainage patterns will remain the same.” Why would additional roads be a benefit to the Town when such roads will need to be maintained for the life of the subdivision, will lead to additional stormwater runoff, will degrade surface water quality by introducing new pollutants in the on-site stream and wetlands, will require significant regrading of the natural topography of the site and have the potential for significant visual impacts? “Drainage patterns will remain the same.” Why would alteration of the natural surface water drainage patterns, including both short term and long term water quality and quantity impacts like erosion and sedimentation, be a benefit to the Town?

**B.      Traditional Neighborhood Alternative**

127.    A plan for the Traditional Neighborhood Alternative has not been provided.
128.    The Traditional Neighborhood Alternative is dismissed as “not consistent with surrounding land uses.” However, the Town Comprehensive Plan specifically addresses

residential development in hamlet locations through a goal that states “*Concentrate denser residential development around the villages and the hamlets, and maintain rural densities in the remainder of the Town.*” The *Plan* also discusses the use of cluster subdivisions to preserve 80 percent open space by shortening roads, clustering homes around a “village green” and using small lots sizes with septic systems sited on the conservation easement lands. In addition, the Zoning Law encourages the use of community septic systems for more compact cluster developments. However, the proposed project fails to address the use of community septics in this case and the recommendations of the *Comprehensive Plan*.

129. The Traditional Neighborhood Alternative states that the “construction of multi family units would increase the overall number of residents the project would likely generate...” There is nothing in the Final Scoping Document that directs the applicant to propose multi-family dwellings as part of the Traditional Neighborhood Alternative. The reason why this was included should be fully explained and justified. Compliance with the Zoning Law also needs to be addressed if multi-family dwellings are proposed as part of this alternative.
130. Central water and sewer services to enable this type of development to occur has not been addressed except where it states that “This alternative would require the use of a central sewer system...” No attempt was made to address a community septic system as required by the Final Scoping Document and as discussed in the above comment nor the applicant’s proposal to provide a central water supply system for the preferred 53 lot subdivision.

**C. Conventional Subdivision**

131. A plan for the Conventional Subdivision Alternative has not been provided.
132. There is no information provided to describe the Conventional Subdivision Alternative. How many units are proposed as part of this alternative? How many linear feet of road would be involved?
133. Table I-1 in the Executive Summary talks about a “Standard Residential Subdivision.” Is this the same as the Conventional Subdivision Alternative? If it is, it needs to be consistent with the Zoning Law’s requirements for four (4) acre minimum lot sizes and other applicable bulk requirements.

**D. Reduced Scale Alternative**

134. This alternative is dismissed as follows: “Since there are no impacts which are not mitigated there is no compelling reason to consider this alternative.” However, there is no discussion of how the number of lots would be required to be reduced if an Orange County Health Department waiver were not granted for the four lots that exceed the 49 lot rule. In addition, there are unmitigated impacts identified in the DEIS (and many others which have not as yet been addressed in the DEIS), such as wetland loss, negative fiscal impacts, water quality degradation, habitat loss, visual impacts, and loss of agricultural resources among others. This needs to be corrected and properly addressed.

**E. Alternative Cluster Designs**

135. There is no discussion of the basis for the two alternative cluster designs provided. Was any part of the 4-step process used to design these alternatives? If so, what factors were used in developing the designs? These two alternatives appear to have been prepared merely to show increased impacts over the proposed plans. There is no question

additional cluster arrangements can be developed that would increase the amount of open space to be preserved while reducing impacts over the proposed project. This is especially important since the proposed cluster plan violates the 4-step design process by siting 15 of the proposed house lots in areas identified as primary and/or secondary conservation areas, outside of the identified “potential development areas.”

#### E. Alternative Energy Option

136. This alternative does not analyze the potential and feasibility for the use of alternative energy resources for heating, cooling and power, including the use of solar energy or groundwater source heat pumps but merely dismisses their use as “unlikely to have a major impact on Orange and Rockland Utilities, energy suppliers or the energy grid itself.” This needs to be corrected.
137. This alternative does not discuss whether use of alternative energy sources would qualify for Energy Star or LEED certification.

#### VI. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

138. This section does not include identification of conversion of a portion of the wetland to a road.

#### VII. GROWTH INDUCING ASPECTS

139. This section states that open land will be preserved in perpetuity through the use of conservation easements. This is in conflict with other sections of the DEIS that state open space will be preserved by restrictive covenants. Conservation easements are the preferred means to preserve open space but the inconsistency needs to be corrected.
140. The statement that “No additional development would be permissible on the project site and a declaration will be filed with the Orange County Clerk prohibiting further subdivision of the subject parcels without County Health Department review and approval.” is not consistent with the Town’s cluster subdivision requirements that would prohibit further subdivision.

#### VIII. EFFECTS ON THE USE AND CONSERVATION OF ENERGY RESOURCES

141. This section does not discuss energy conservation measures.

#### IX. APPENDICES

142. The appendices do not include correspondence (including all SEQR documentation and correspondence related to issues addressed in the DEIS).
143. The DEIS does not include the site context map, a Landscape Plan, nor a Lighting Plan.
144. The DEIS does not include reduced versions of all of the large scale engineering plans submitted with the DEIS.

Max Stach: Thank you.

***HOMARC Land, LLC.***

Application for Site Plan Approval and Special Use Permit for the construction and use of a commercial site plan of a 20,300 square foot office/retail building, situated on tax parcel S 51 B 1 L 5.231; project located on the northern side of NYS Route 94 425± feet east of Warwick Turnpike, in the DS zone, of the Town of Warwick. Previously discussed at the 2/20/08 Planning Board meeting. Planning Board issued a Positive Declaration on 4/16/08.

Representing the applicant: Dave Getz, P.E., from Lehman & Getz Engineering.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - a. Full EAF.
  - b. A 100-foot wide management area is shown along the wetland delineation. The 300' wide area of special concern along the wetland, as noted by FWS for the Fairgrounds project, is not shown.
2. Applicant to discuss project.
3. Provide a letter report from the delineator supporting the location of the federal jurisdictional wetlands boundary and a jurisdictional determination from the ACOE.
4. Per §164-42F, a marginal access road is shown on the plan. Applicant and Board to discuss.
  - A. The proposed building is setback 20 feet from the proposed marginal access right-of-way where 100 feet is required (§164-42F(3)(b)[3][b][ii]).
5. A Traffic Report has been prepared for the project.
  - A. The Report includes analyses of AM and PM Peak Hour Traffic for 2007 Existing, Projected 2010 No-Build, and Projected 2010 Build Conditions. Include analyses of weekend peak conditions.
  - B. The Report recommends a left turning lane on Rt. 94 NB. Schematically show how this lane will function considering the existing Rt. 94 SB left turning lane for Shop-Rite and the proposed Rt. 94 NB left turning lane for The Fairgrounds.
  - C. The transmittal letter notes that limited space in the proposed building may be designated for food service. Will there be an effect on the analysis if food service is included in the building?
6. At a previous meeting, the applicant was encouraged to consider sharing parking with the adjacent bowling alley, especially if the peak usage times for each facility are different. The Traffic Report appears to bear out this assumption. Shared parking would minimize the area to be paved and allow for more effective land use. Applicant to report on any progress on this topic.
7. Regarding the well location, place the comments from OCHD review (1/3/08 letter) on the plans as "Wellhead Protection Notes".
8. Provide a landscaping plan showing consistency with the Town's Design Guidelines.
9. Show the location of a Fire Lane in the parking lot and include with the notice to the Warwick Fire District for their review and comment.
10. Provide architectural drawings as noted in the Site Plan Checklist for the Board's information and review.
11. Future plans should include information and calculations for site drainage and stormwater management (SWPPP), lighting conforming with §164-43.4, and signage consistent with

§164-43.1. Provide details for the parking lot pavement, erosion control measures, and a sequence of construction for developing the site.

The following comment submitted by the Conservation Board, dated 12/17/08:

HOMARC Land, LLC. – CB has no further comments.

The following comment submitted by the ARB, dated 12/17/08:

HOMARC, Land, LLC. - the ARB would like to see the applicant's plans and elevations (all four sides) for the proposed building on this site, especially since they have modified the building footprint, as well as landscaping plans and buffering. If the applicant would prefer, we would be happy to schedule a meeting with them after the Holidays to review the plans and offer any assistance. It will be important, as we and the Planning Board have stated, to retain some type of synergy with the other buildings in the immediate area, especially the plans for the Fairgrounds complex which is adjacent.

Comment #1: Board to discuss SEQR.

- a. Full EAF.
- b. A 100-foot wide management area is shown along the wetland delineation. The 300' wide area of special concern along the wetland, as noted by FWS for the Fairgrounds project, is not shown.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. The Planning Board issued a Positive Declaration on this application several months ago. We directed the applicant to prepare a Draft EIS. The Planning Board had also indicated to the applicant at that time that it did wish to conduct a Scoping of the DEIS. At this time, the applicant has provided us with a Draft Scoping Document. This Scoping Document does require public participation. At this point, the Draft Scoping Document should be put up on the Town of Warwick's website and be made available at the Town Hall. We should put a notice in the newspaper about a Public Scoping Session. That Scoping Session should be scheduled at some point within (60)-days from the submission of the Draft Scoping Document. The regulations provide for a (60)-day review and comment period on the Scoping Document. Once that has been accomplished, if there are any comments from myself, Tectonic, any agency's comments, or members of the public, we would incorporate those into the Draft Scoping Document. Then, the Planning Board would prepare a Final Scoping Document. We would then adopt that Final Scoping Document. We would then hand that to the applicant. That would be their direction to go and prepare the Draft EIS.

Mr. Astorino: Ok. Would the Tectonic comments that we have tonight be reflected in that? Zen, it states that the comments were on previous submittals. Has anything changed from before?

Zen Wojcik: No. Because, we have not received any revised plans.

Mr. Astorino: Ok. These are the same comments that we had from the last time.

Dave Getz: We have done a revised concept plan.

Zen Wojcik: Right.

Dave Getz: We have realized due to a bigger building lot, we need to update the traffic and that type of thing. I don't think there are any comments that I need to go through in detail.

Mr. Astorino: Zen, do any of the comments stand out to you that you would like to discuss?

Zen Wojcik: No. But, there was one thing that I think Connie would like to mention.

Connie Sardo: Yes. You will need to send us a revised site plan and special use permit application because you have changed the size of the building. Please send me the revised application.

Dave Getz: Right. Ok.

Connie Sardo: Also, we received a comment from the ARB, dated 12/17/08. Would there be any way to get preliminary architectural drawings?

Mr. Astorino: If you do get some architectural drawings and you want to sit down and set up a meeting with the Planning Board and ARB like the one we have done before, so this way we would all be on the same page with that as we go through this, we could do that.

Dave Getz: Ok.

Mr. Astorino: When you get those drawings, let us know. We would then hook up with the ARB.

Dave Getz: Ok. We have told the owners to engage in architects so that could get started.

Mr. Astorino: Ok. That is fine. We will list comments 2 through 11 for the record.

Connie Sardo: There is no comment from the Conservation Board.

Mr. Astorino: Ok. Thank you. You will be back.

Dave Getz: Ok. Thank you.

Comment #2: Applicant to discuss project.

Comment #3: Provide a letter report from the delineator supporting the location of the federal jurisdictional wetlands boundary and a jurisdictional determination from the ACOE.

Comment #4: Per §164-42F, a marginal access road is shown on the plan. Applicant and Board to discuss.

A. The proposed building is setback 20 feet from the proposed marginal access right-of-way where 100 feet is required (§164-42F(3)(b)[3][b][ii]).

Comment #5: A Traffic Report has been prepared for the project.

A) The Report includes analyses of AM and PM Peak Hour Traffic for 2007 Existing, Projected 2010 No-Build, and Projected 2010 Build Conditions. Include analyses of weekend peak conditions.

- B) The Report recommends a left turning lane on Rt. 94 NB. Schematically show how this lane will function considering the existing Rt. 94 SB left turning lane for Shop-Rite and the proposed Rt. 94 NB left turning lane for The Fairgrounds.
- C) The transmittal letter notes that limited space in the proposed building may be designated for food service. Will there be an effect on the analysis if food service is included in the building?

Comment #6: At a previous meeting, the applicant was encouraged to consider sharing parking with the adjacent bowling alley, especially if the peak usage times for each facility are different. The Traffic Report appears to bear out this assumption. Shared parking would minimize the area to be paved and allow for more effective land use. Applicant to report on any progress on this topic.

Comment #7: Regarding the well location, place the comments from OCHD review (1/3/08 letter) on the plans as "Wellhead Protection Notes".

Comment #8: Provide a landscaping plan showing consistency with the Town's Design Guidelines.

Comment #9: Show the location of a Fire Lane in the parking lot and include with the notice to the Warwick Fire District for their review and comment.

Comment #10: Provide architectural drawings as noted in the Site Plan Checklist for the Board's information and review.

Comment #11: Future plans should include information and calculations for site drainage and stormwater management (SWPPP), lighting conforming with §164-43.4, and signage consistent with §164-43.1. Provide details for the parking lot pavement, erosion control measures, and a sequence of construction for developing the site.

**Mr. McConnell makes a motion to set the HOMARC Land, LLC., application for a Public Scoping Session on January 21, 2009.**

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

***Oscar Blandi #2***

Application for “*Amended*” Site Plan Approval for the construction and use of a replacement of a Boathouse Roof with a Deck and Walkway to the new deck located within “A Designated Protection Area” of Greenwood Lake, situated on tax parcel S 74 B 5 L 31; project located on the eastern side of Jersey Avenue (236 Jersey Ave.), in the SM zone, of the Town of Warwick. Previously discussed at the 5/7/08 Planning Board meeting.

Representing the applicant: No Show.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Applicant has provided an Amended Site Plan.
  - A. Revise the “Approved” note: “Site Plan for addition to existing house within the Designated Protection Area of Greenwood Lake approved 11/3/04.”
  - B. On the call-out for “Area of squareing off ...”, note that this refers to the previous approval.
4. In response to the comments of the public hearing and the Building Inspector’s 4/8/08 memo:
  - A. On the Amended Site Plan, label the offset from the property line to the “bridge” connecting to the new roof deck as 5-foot minimum.
  - B. A 4” white plastic pipe, evidently a discharge directly into the lake from some location on the Blandi property, was noted by the Building Inspector. This pipe should be shown to outlet onto the lawn at a sufficient distance from the lake to allow the discharge to spread across the vegetation.
  - C. Applicant to discuss whether other facilities owned by Mr. Blandi on the Vujic side of the stone wall are on Mr. Blandi’s property or that they have been removed.
5. Pay final review fees.

The following comment submitted by the Conservation Board, dated 12/17/08:

Oscar Blandi #2 – CB has no further comments.

The following comment submitted by the ARB, dated 12/17/08:

Oscar Blandi #2 – ARB has no further comments.

Mr. Astorino: The applicant or a representative of the applicant is not here. We will hold off on this application for later to see if someone shows up.

Zen Wojcik: Connie, did you get in touch with them?

Connie Sardo: There was no answer.

Mr. Astorino: I know that there is no one here tonight to represent the applicant, but I would like to ask Zen a question. Are the comments tonight general in nature?

Zen Wojcik: This is an application that was previously before the Planning Board. We had a public hearing on this application. There were several issues that came from the public hearing that enlightened the Planning Board as to some of the activities out there. After that public hearing, the applicant withdrew the application.

Mr. Astorino: Yes.

Zen Wojcik: Recently, the applicant had a change of heart. He came back and resubmitted the application with the same plan. Some of the issues have been resolved. Some of the issues are not clear. The comments that we have tonight are for the applicant to explain what is going on. I think the attempt tonight was to reset them for another public hearing. I asked Connie to call the architect just to make sure that they knew there was a meeting tonight. They are not in front of a Board often. People who are not familiar with a Board do know the process. Connie had just said that there was no one there to take a call.

Connie Sardo: I have emailed to the applicant the agenda and comments. I have also faxed them to the architect.

Mr. Astorino: Let us move on and get the rest of them done. If we have to, we could set them for a public hearing. I don't know how we could do that with not having the applicant or their representative here tonight.

Mr. Singer: I wouldn't do that.

Mr. Astorino: We will hold them off.

Mr. Bollenbach: Let us submit the comments for the record.

Mr. Astorino: Ok. We will submit comments 1 through 5 for the record. Connie, give the applicant a call tomorrow.

Connie Sardo: I will give them another call.

Comment #1: Board to discuss SEQR.

Comment #2: Applicant to discuss project.

Comment #3: Applicant has provided an Amended Site Plan.

A. Revise the "Approved" note: "Site Plan for addition to existing house within the Designated Protection Area of Greenwood Lake approved 11/3/04."

B. On the call-out for "Area of squareing off ...", note that this refers to the previous approval.

Comment #4: In response to the comments of the public hearing and the Building Inspector's 4/8/08 memo:

A. On the Amended Site Plan, label the offset from the property line to the "bridge" connecting to the new roof deck as 5-foot minimum.

B. A 4" white plastic pipe, evidently a discharge directly into the lake from some location on the Blandi property, was noted by the Building Inspector. This pipe should be shown to outlet onto the lawn at a sufficient distance from the lake to allow the discharge to spread across the vegetation.

C. Applicant to discuss whether other facilities owned by Mr. Blandi on the Vujic side of the stone wall are on Mr. Blandi's property or that they have been removed.

Comment #5: Pay final review fees.

***Lands of Howard Shapiro***

Application for Sketch Plat Review of a proposed 7-Lot (Major) subdivision, situated on tax parcel S 42 B 4 L 50; parcel located on the northern side of Orange County Route 1A 500 feet north of West Street Extension, in the SL zone, of the Town of Warwick. Previously discussed at the 4/2/08 Planning Board meeting.

Representing the applicant: Mr. Lipman, Attorney. Dave Higgins from Lanc & Tully Engineering.

1. Board to discuss SEQR.
  - A. Lead Agency
  - B. County Route 1A is a designated Scenic Road in the Comprehensive Plan. Provide Visual Impact Analysis for proposed lots 5, 6 & 7.
2. Applicant to discuss project.
3. The proposed subdivision is being created from the 50<sup>th</sup> lot of the Westview subdivision. Per §137-7B(3)(b), if more than 49 lots are created “either simultaneously or sequentially from a parent parcel”, central sewer and water services must be provided to all lots, subject to a waiver from the Commissioner of the NYS Dept. of Environmental Conservation. Applicant has provided a letter indicating the potential lack of jurisdiction by the OCDOH. Lack of jurisdiction does not address the Town Code, prior approval, and Findings Statement requirements. Applicant and Board to discuss.

**COMMENTS BELOW CONCERN THE PLANS, ASSUMING THAT THE APPLICATION COULD PROCEED.**
4. General Note #13, sheet 1, states that two existing high yield wells are not to be used as community water supply. Applicant to discuss.
5. At the existing well shown to be abandoned on proposed Lot 7, reference the note on sheet 1 stating that it shall be abandoned in a manner consistent with the regulations of the Orange County Department of Health.
6. The driveway of proposed lot #5 is aligned to intersect the outflow of the West View stormwater management pond located on that lot. Show that there will be no adverse impact on either the outflow or the driveway with this alignment. (Grade of driveway is almost identical to existing grade.)
7. Provide a driveway profile for driveways of proposed lot #2 & 5.
8. Add note stating: “No site preparation or construction, including utility connections, shall commence before a valid highway entrance permit has been secured from the Orange County Department of Public Works under Section 136 of the Highway Law or Driveway Permit has been secured from the Town of Warwick Department of Public Works.” (Typically, OCDPW requires this note on each sheet.)
9. Show the locations of witnessed percs & deeps on proposed lots #1 & 2.
10. Show and label the locations of the two 36-in-dia culverts downstream of the proposed lot #4 driveway.
11. Provide a proposed sketch detail of the 2’x10’ box culvert for the proposed lot #4 driveway. Note on the detail that a design for the culvert, signed & sealed by a NYSPE must be submitted for Town Engineer review and approval before any components of the culvert shall be ordered.
12. An existing shed is shown on proposed lot #6 behind the firehouse. Applicant to discuss.
13. The driveway for proposed lot #3 is located on Eagle’s Watch, same as proposed lots # 1 & 2. However the references for comparing sight distances are different. Revise.

14. The Septic Design Table does not agree with the Septic System Design Requirements table prepared by Orange County Department of Health. The lineal feet of absorption trench requirements are consistently low. Revise.
15. Laterals for proposed lots #1, 3, & 4 exceed 60 feet, requiring either a pressure system or dosing system. Revise the design or include appropriate details.
16. Revise the reference on erosion control details to *NYS Standards and Specifications for Erosion and Sediment Control (NYSDEC)*.
17. On the Stabilized Construction Entrance detail, revise the required stone size to 1”-4” stone. Revise the second note under the detail.
18. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
19. Applicant to provide 9-1-1 addressing.
20. Pay parkland fees.
21. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 12/17/08:

Lands of Howard Shapiro - The CB notes that Section 137-7B(3)(b) states in relevant part:

- 3) The Planning Board may require a deed restriction limiting the resubdivision of any parcel of land large enough to be legally subdivided or resubdivided under the provisions of the Zoning Ordinance. **Editor's Note: See Ch. 164, Zoning.** The intent of the deed restriction will be as follows:
  - b) No more than a total of 49 lots may be created either simultaneously or sequentially from a parent parcel for which both central sewer and water services do not exist. [NOTE: Subject only to the waiver of the Commissioner of Environmental Conservation, State of New York, if warranted by soils characteristics.] Should more than that total number of lots at any time be applied for, the applicant will have to include a plan for providing central sewer and water services to the previously subdivided lots at no additional costs to their present owners as part of his present application for subdivision.

If there is no waiver from Pete Grannis' office then it appears this further subdivision is not authorized under the Town Code since the waiver that has been obtained is from Orange County Department of Health which is not specified in the regulation cited. In addition, there does not appear to be any plans for central water and sewer “at no additional cost to the present owners” (original 49 lot subdivision).

The following comment submitted by the ARB, dated 12/17/08:

Lands of Howard Shapiro – ARB has no comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: As far as SEQR is concerned, there is a Memorandum from the Planning Board's Attorney, dated 12/15/08 that does discuss SEQR. I am going to defer it to John Bollenbach for the discussion of SEQR.

Mr. Bollenbach: I have a Memo addressed to the Planning Board dated 12/15/08. The Memo is stated at follow:

*“The Shapiro subdivision application, a further subdivision of a parent parcel, cannot be approved in its current form because it does not provide central water and sewer as required by the Town of Warwick Town Code. Section 137-7(B)(3)(b) states:*

*“No more than a total of 49 lots may be created either simultaneously or sequentially from a parent parcel for which both central sewer and water services do not exist. [Note: Subject only to the waiver of the Commissioner of Environmental Conservation, State of New York, if warranted by soil characteristics]...”*

*The subdivision of the additional seven lots will, together with the prior approved lots, exceed 49. Developments in excess of 49 lots require central sewer and water under both the Town Code and the prior approval. The prior approval so provided, in several places, including on the prior Plat and in the prior Findings Statement. At present, this proposed plan does not include the required central facilities.*

*At this point in time, no SEQRA determinations should be made as the application before the Planning Board does not comply with the Town Code, and is, thus, incomplete. Any determination of significance would not take into consideration the environmental effects of any proposed central facilities. The Board should note that no compliance with SEQRA is required to disapprove an application, which disapproval would be required if based on the current unmodified proposal.*

*I note that the applicant has provided a letter from the Orange County Department of Health indicating its lack of jurisdiction. A lack of jurisdiction does not constitute a waiver under the Town of Warwick Code. A waiver is legally defined as an intentional relinquishment of authority. Therefore, a waiver is not merely a lack of jurisdiction. Further, the non-jurisdiction letter cannot be a waiver since it does not address the suitability of the soils as required by the Code.*

*While there may be a lack of jurisdiction under state law, there is no lack of jurisdiction pursuant to the Town Code, which has enacted more stringent sanitary requirements than state law. Pursuant to Bri-Mar Corporation v. Town of Knox, 74 N.Y.2d 826 (1989), such local sanitary code provisions may be more stringent than state requirements and must be obeyed.*

*In order for the applicant to proceed, it must either obtain a waiver from the DEC Commissioner indicating that the soils are suitable for additional septic systems on the property or the applicant must install central sewer and water as required by both the Town Code and the conditions of the original approval for the first 49 lots.”*

Mr. Lipman: I would like to respond to that. §137-7(B)(3)(b) does state what you have indicated. On the other hand, §137-7(B)(3) which is the introductory paragraph before the paragraph that is in your memo is stated as follow: *“The Planning Board may require a deed restriction limiting the re-subdivision of any parcel of land large enough to be legally subdivided or re-subdivided under the provisions of the Zoning Ordinance. The intent of the deed restriction will be as follow.”* The subject of subparagraph (b), which is set forth in your Memo is the restriction of that earlier section that it refers to. The operative word is may. The Planning Board may require a deed restriction. This Planning Board did not do so in connection with the approval of the 49-lot subdivision. There is nothing on the plan suggesting that we must build a treatment plant and a central water system in order to subdivide any further. Nothing is there. But, clearly if you read this section with the preamble up above, it does not apply to this subdivision. You refer to a Findings Statement. I acknowledge that there is language in it particularly in paragraph 4 the 2<sup>nd</sup> sub-paragraph of that section, there is a sentence in it that is stated as follow: *“Any additional development of the ±188.76-acre parcel, beyond the proposed*

49 building lots, will require the development of a community sewage disposal system.” It goes on to say that “all existing homes would have to be hooked up.” There is a similar paragraph or sentence in paragraph 6 that deals with groundwater relating to a community water system. The Findings Statement is relegate to making findings on environmental issues. It is not relegate to make findings of law. I submit to you that the two sentences in the Findings Statement is not an environmental finding. Nor, is it calculated to mitigate anything. It was nothing more or less than a statement by the offer of this document with respect to what he believed the law to be that would apply in the future if additional lots were to be subdivided, nothing else. It does not impose any requirement upon us beyond the approval granted sometime later. It contains no condition with respect of final approval. It contains no condition with respect to central water or sewer. There are in the Final Approval Resolution adopted in December 17, 2004, there are no less than 22 conditions. None of them deals with central water or sewer. We might have difference of opinion here as to whether or not central water and sewer would be required. But the final arbiter is not either this Board or me. I understand at the last Workshop on 12/8/08, you Mr. Chairman had instructed Mr. Fink to prepare a Positive Declaration.

Mr. Astorino: We had discussed it at the Work Session.

Mr. Lipman: Is that your current intent?

Mr. Astorino: Not this evening.

Mr. Lipman: No?

Mr. Astorino: No.

Mr. Lipman: Have you changed your mind about that?

Mr. Astorino: We have discussed it. We felt with this information that our Attorney presented to us this evening, as he had just read that SEQR doesn't have to be acted on. John, correct me if I am wrong.

Mr. Bollenbach: It is pre-mature.

Mr. Astorino: It is pre-mature to act on SEQR at this point.

Mr. Lipman: You don't think that you are going to hold this application in suspense, until we present you with a plan that shows the development of the sewers?

Mr. Astorino: I did not say that.

Mr. Lipman: Please explain to me.

Mr. Astorino: I believe what the issue here is, you have just raised a concern. There seems to be some disagreement between our attorney and you, as far as this central water and sewer. I assume John would want a little time to research this. John, is that correct?

Mr. Bollenbach: Yes. Mr. Lipman stated that there was nothing in the approved plan.

Mr. Lipman: Yes.

Mr. Bollenbach: I am looking in the General Notes on the plan, General Note #5, states; *“being that this is a cluster subdivision, no further subdivision is permitted, except for the unrestricted portion of the remaining lands located outside the limits of the cluster development area. Development of this unrestricted portion is subject to connection of public water and sewer for all lots, if required by law at that time”*.

Mr. Lipman: If required?

Mr. Bollenbach: It is specifically stated on the approved plans itself. Perhaps that was why that was not an additional condition of approval because that had already been addressed within the context of the plan itself.

Mr. Lipman: It states here, if required by law at that time.

Mr. Bollenbach: That is why it is our position that this is required by law at this time.

Mr. Lipman: Well, we have opposite positions.

Mr. Astorino: That would be a decision that we would have to discuss.

Mr. Bollenbach: There was one other reference that Mr. Lipman had made regarding §137-7(B)(3) where it discussed deed restrictions, if required. I would have to take a look at the Declarations which were imposed on this parcel. Let me review that to see if there were any references to the sewer and water. I don't have a recollection at this time. I will take a look at that. Once I find that out, I will discuss it with the Board at another work session.

Mr. Astorino: Do any Board members have any other questions? That is where we are right now. Get us some more information. We will then make a determination.

Mr. Lipman: Ok. The game plan for the Board is to look into the argument that I am making.

Mr. Astorino: I believe that you have just made an argument to this Board. I believe there are opposing positions.

Mr. McConnell: Do we have a copy of that argument? Do we have a copy of Mr. Lipman's argument?

Mr. Lipman: You don't have it.

Mr. Astorino: John, would you research some of this?

Mr. Bollenbach: Yes.

Mr. Astorino: I am sure some of the Board members would have some questions for you before a work session. We will get this onto a work session. We would then make a decision on where we would want to go.

Mr. Bollenbach: Once Connie has the Minutes done, we will get a Draft of the Minutes sent out to the Board for their review.

Mr. Astorino: As far as SEQR goes, I believe the Board could make a determination on SEQR as a Positive Declaration or a Negative Declaration at any time. Ted, is that correct?

Mr. Fink: In this case, based upon John's memo because the application is incomplete, I believe what the argument in here is that no SEQR determination needs to be made at this time. It is somewhat similar to applications that require referral to the ZBA because they are incomplete or they are not in compliance with the Town Code. We regularly refer them to the ZBA without addressing SEQR at that time because they are incomplete.

Mr. Lipman: You are suggesting that on an issue as basically as this that sewers are required or not required, meaning the central sewer and central water. The existing of this agreement requires me to design that plan and that water system in order to get a determination.

Mr. Bollenbach: Zen, I don't think it has to be designed in its entirety. We have several sewer and water plans that are still in the design process after final approval.

Zen Wojcik: What John is saying, we need to see a concept.

Mr. Bollenbach: Yes.

Zen Wojcik: We need to see a concept showing where the central water and sewer system would go.

Mr. Lipman: In the context of a dispute as to whether or not it is required.

Zen Wojcik: I believe that is what I am hearing.

Mr. Lipman: I am hearing it to. That doesn't cut it with me.

Mr. Astorino: We will take your argument. I am sure we would have comments for Mr. Bollenbach through the Board. We will get you onto a work session. We will go from there.

Mr. Lipman: We haven't finished the comments yet.

- A. Lead Agency.
- B. County Route 1A is a designated Scenic Road in the Comprehensive Plan. Provide Visual Impact Analysis for proposed lots 5, 6 & 7.

Dave Higgins: I am not sure what the Board is looking for with regards to a Visual Impact Analysis for those 3 lots. Are there 3 lots that are surrounded by 49 approved building lots surrounded by an existing barn and an existing dwelling?

Mr. Astorino: County Route 1 was a scenic road when that was done. Is that correct? I believe there was a Visual Impact Analysis done at that time.

Mr. Bollenbach: Yes. There was one done at that time.

Dave Higgins: I am not sure about the context of the development behind these 3 proposed lots.

Mr. Astorino: Maybe, there is no visual impact.

Dave Higgins: We could provide something.

Mr. Bollenbach: Get in touch with Ted.

Mr. Fink: Generally, what we do with the Visual Analysis is a line-of-sight profiles to determine whether or not topography or vegetation would screen any proposed developments from a scenic road or a scenic area.

Comment #2: Applicant to discuss project.

Mr. Astorino: Is there anything difference you want to discuss on the project?

Dave Higgins: No.

Comment #3: The proposed subdivision is being created from the 50<sup>th</sup> lot of the Westview subdivision. Per §137-7B(3)(b), if more than 49 lots are created “either simultaneously or sequentially from a parent parcel”, central sewer and water services must be provided to all lots, subject to a waiver from the Commissioner of the NYS Dept. of Environmental Conservation. Applicant has provided a letter indicating the potential lack of jurisdiction by the OCDOH. Lack of jurisdiction does not address the Town Code, prior approval, and Findings Statement requirements. Applicant and Board to discuss.

Mr. Astorino: That is where we are at right now.

Mr. Lipman: I would like to talk about that comment. It was a fact until the early 1970's that the Department of Environmental Conservation had exclusive jurisdiction over the sewers. In 1977, the Environmental Conservation Law was amended to provide for local regulations in those cases where a County Department of Health existed. They were authorized to adopt regulations. You have a branch of NYS Department of Health in Orange County. That agency now has complete jurisdiction over sewers and water.

Mr. Astorino: Is that over the DEC?

Mr. Lipman: Yes. They have that jurisdiction. When you consider the statement that was provided to you in a letter from the OCHD expressing the lack of jurisdiction that is not quite a correct terminology to have used. They had jurisdiction complete jurisdiction, but they take the position under their current regulations that this is not these lots that are more than 5-acres in size are not residential lots as that term is defined in the Public Health Law. Anything in excessive of 5 acres is not a residential lot. From that Department's perspective, there is no need.

Mr. Astorino: Is that the County Department of Health?

Mr. Lipman: Correct. That is the agency having jurisdiction. Your Regulations, I am reasonably certain although I haven't been able to find an old copy of the Subdivision Regulations, I have a wager that it was included in the Regulations before jurisdiction was directed to the Department of Health.

Mr. Astorino: John, is that something you could research?

Mr. Bollenbach: I could take a look. If you have the 77' implementation regarding jurisdiction, that would be good.

Mr. Lipman: I have it right here. Do you mean the statue?

Mr. Bollenbach: Yes.

Mr. Lipman: It is Section 17-1503 of the Environmental Conservation Law. It is not possible to secure a waiver. The same rule applies in the DEC with respect to the 49-lot limiting their regulations. They do not include parcels that exceed 5 acres in size. I also want to point out to you in the Findings Statement when your attention was called to what would happen if there were additional development. Your explanation of your Ordinance does not even include the language related to the waiver. It is not in the part dealing with sewers and it is not paragraph 6 that deals with water. Forgive me because this little 7 lot subdivision seems to have stirred things up a great deal. I did not know when this issue first arose on whether you were saying that this language in the Findings Statement precluded the securing of a waiver, if it applied at all. It is not in the Findings Statement. What do you think the answer would be to that question?

Mr. Bollenbach: That would be something that I would have to advise the Board on. I will look into that. That is this specific issue as to whether or not the SEQR findings supersede the provisions of Local Law over State Law.

Mr. Lipman: I just to make sure that I understand what you intend to do. I assume you would get advice from Mr. Bollenbach as to my comments. When you then determine whether as a Board you are going to require public sewers and water in order to process this application?

Mr. Astorino: I am sure we will take the information that you have provided us this evening. I am sure Board members might have information for Mr. Bollenbach. We would have a work session and make a decision. We would then go from there. Is that the Board's plan? The Board is ok with that. Mr. Lipman, is there anything further in the comments that you would like to go over? It states, the comments below concern the plans, assuming that the application could proceed.

Mr. Lipman: I have no particular interest in the rest of the comments. Mr. Higgins might have an interest.

Mr. Astorino: Dave, do you have anything?

Dave Higgins: I would like to go through these comments.

Mr. Astorino: Ok.

**COMMENTS BELOW CONCERN THE PLANS, ASSUMING THAT THE APPLICATION COULD PROCEED.**

Comment #4: General Note #13, sheet 1, states that two existing high yield wells are not to be used as community water supply. Applicant to discuss.

Dave Higgins: There are 2 existing high yield wells on the subdivision on parts of the lands that is included in this application. The OCHD during the review of the West View Estates subdivision required that we have notes on the plan that basically called for those high yielding wells to not be used for portable water supply.

Mr. Astorino: What was the reason for that?

Dave Higgins: The one that I think was questioned in the notes had to do with the existing well that is on lot 1. The reason they were calling that to be abandoned was because of its proximity to the septic system on the adjacent lot that was part of the West View Estates subdivision. That was less than 200 feet from the approved location of a septic system on that lot. We don't meet the separation requirement on that. We therefore have to abandon the well. We would then have to put in a new well. That well does meet the separation requirement. That is what that is about.

Zen Wojcik: Has that septic system been built yet?

Dave Higgins: I don't believe so. This is lot 48.

Mr. Astorino: That would be the applicant call if they wanted to abandon the well and build another one. It wouldn't seem practical.

Zen Wojcik: There is an interesting point. One of the issues that we are talking about here is potable community water and there are two high yielding wells on the property.

Mr. Astorino: I agree.

Comment #5: At the existing well shown to be abandoned on proposed Lot 7, reference the note on sheet 1 stating that it shall be abandoned in a manner consistent with the regulations of the Orange County Department of Health.

Dave Higgins: We will add note.

Comment #6: The driveway of proposed lot #5 is aligned to intersect the outflow of the West View stormwater management pond located on that lot. Show that there will be no adverse impact on either the outflow or the driveway with this alignment. (Grade of driveway is almost identical to existing grade.).

Dave Higgins: The driveway crosses an existing reinforce concrete pipe. We have demonstrated that on the plan. It was submitted to the Board for the grading of that driveway. We showed that the cover over that pipe was adequate. I had made a statement in my submission letter that there would be no adverse impact either to the outflow of that pond or to the driveway as a result. It is hard to prove a negative. We don't see any adverse impact. I don't know where that would come from.

Zen Wojcik: That would be a discussion that we would have to have. I do see where there could be an overflow from the stormwater management pond. It would overwhelm the driveway. It would be somebody else's property that they would be overwhelming. We would need to have that clarified.

Mr. Astorino: Ok. That would something you could work out.

Dave Higgins: Yes. We could talk about that.

Comment #7: Provide a driveway profile for driveways of proposed lot #2 & 5.

Dave Higgins: We show the grading for both of those driveways. We added notes on the plan that the grading is less than the maximum grading issued by the Town.

Zen Wojcik: We are asking for what we normally ask for.

Dave Higgins: Do you normally ask for profiles on all driveways?

Zen Wojcik: The ones that are around 10% in grade.

Dave Higgins: One of the driveways is 7-1/2%.

Zen Wojcik: There are issues that go along with that.

Dave Higgins: If it is required, we could add it. We didn't think it was appropriate.

Mr. Lipman: You don't mind if we wait until we get a determination on the issue of the sewers.

Zen Wojcik: Absolutely not.

Comment #8: Add note stating: "No site preparation or construction, including utility connections, shall commence before a valid highway entrance permit has been secured from the Orange County Department of Public Works under Section 136 of the Highway Law or Driveway Permit has been secured from the Town of Warwick Department of Public Works." (Typically, OCDPW requires this note on each sheet.).

Dave Higgins: We will add note.

Comment #9: Show the locations of witnessed perc's & deeps on proposed lots #1 & 2.

Dave Higgins: We will show it on the plans.

Comment #10: Show and label the locations of the two 36-in-dia culverts downstream of the proposed lot #4 driveway.

Dave Higgins: Will do.

Comment #11: Provide a proposed sketch detail of the 2'x10' box culvert for the proposed lot #4 driveway. Note on the detail that a design for the culvert, signed & sealed by a NYSPE must be submitted for Town Engineer review and approval before any components of the culvert shall be ordered.

Dave Higgins: Will do.

Comment #12: An existing shed is shown on proposed lot #6 behind the firehouse. Applicant to discuss.

Dave Higgins: It is an existing shed that is on lot 6. It is our understanding currently that it is proposed to remain for use by the future owner of lot 6.

Mr. Bollenbach: Was there supposed to be a lot line change with the Fire Department.

Dave Higgins: I know there was some discussion about it. I don't know the status of it.

Mr. Bollenbach: I was wondering if that had proceeded or not.

Dave Higgins: John, I haven't heard anything about that in awhile. I am not sure. If they do decide to do that, we would implement that as part of the plan.

Comment #13: The driveway for proposed lot #3 is located on Eagle's Watch, same as proposed lots # 1 & 2. However the references for comparing sight distances are different. Revise.

Dave Higgins: That table needs some adjustment. That is a drafting issue. We will take care of that.

Comment #14: The Septic Design Table does not agree with the Septic System Design Requirements table prepared by Orange County Department of Health. The lineal feet of absorption trench requirements are consistently low. Revise.

Dave Higgins: I would have to check that over with Zen. I checked that out twice today. Our numbers seem to be right on, but the Health Department requires so much. I don't know if we are missing something. We would work that out.

Zen Wojcik: We will take a look at that.

Comment #15: Laterals for proposed lots #1, 3, & 4 exceed 60 feet, requiring either a pressure system or dosing system. Revise the design or include appropriate details.

Dave Higgins: We will make modifications.

Comment #16: Revise the reference on erosion control details to *NYS Standards and Specifications for Erosion and Sediment Control (NYSDEC)*.

Dave Higgins: Will do.

Comment #17: On the Stabilized Construction Entrance detail, revise the required stone size to 1"-4" stone. Revise the second note under the detail.

Dave Higgins: Will do.

Comment #18: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.

Dave Higgins: We would do that further down the line.

Comment #19: Applicant to provide 9-1-1 addressing.

Dave Higgins: Will do.

Comment #20: Pay parkland fees.

Dave Higgins: The applicant will do that.

Comment #21: Pay outstanding review fees.

Dave Higgins: The applicant will do that.

Connie Sardo: Mr. Chairman, we have a comment from the Conservation Board, dated 12/17/08 for the record. The ARB did not have any comments.

Mr. Astorino: Ok.

Mr. Lipman: Are you going to discuss the Conservation Board's comment?

Mr. Astorino: No. I am not.

Mr. Lipman: Don't you do that?

Mr. Astorino: No. It has been submitted for the record.

Mr. Bollenbach: It has been submitted for the record. Would the applicant like to discuss it?

Mr. Astorino: Do you have anything on that you would like to discuss?

Mr. Lipman: It strikes me as curious that they had found that language that we hadn't found in that §137-7B(3)(b). Having read their comment, I don't think they understood it.

Mr. Astorino: That would also be something to discuss.

Mr. Lipman: Ok. Thank you.

**Other Considerations:**

1. **Warwick Isle Corp.** – Letter from Kirk Rother, dated 12/10/08 addressed to the Planning Board in regards to the Warwick Isle Subdivision – requesting a 5<sup>th</sup> 6-Month Extension on preliminary approval of a proposed 30-Lot + 3-Affordable Homes Subdivision, SBL # 3-1-6.21. Preliminary Approval was granted on, 6/21/06. The 5<sup>th</sup> 6-Month Extension becomes effective on, 12/21/08.

Connie Sardo: The applicant is still going through the OCHD process.

Mr. Bollenbach: Zen, 5<sup>th</sup> 6-Month Extension, it has been 3 years now going through OCHD. Does that make sense?

Zen Wojcik: I know they had a delay in the process because of the Millennium Pipeline. The result was that in the federal documentation for Millennium Pipeline there was a change in the route for the pipeline that chewed up about a year of their time. It would be to their benefit. I guess they put everything else on the table until that was completed. Now, they are pursuing what they need to go through with the County.

Mr. Bollenbach: Ok. Does that seem reasonable?

Zen Wojcik: Yes. That does seem reasonable. The Board should remember that there were a couple of lots that they voluntarily left because of archeological concerns. When the Millennium Pipeline came through there was a lot more archeology done in Orange County. There might have been some impact. I am not sure.

Mr. Bollenbach: Ok. Thank you.

Mr. McConnell makes a motion on the Warwick Isle Corp., application, granting a 5<sup>th</sup> 6-Month Extension on preliminary approval of a proposed 30-Lot + 3-Affordable Homes Subdivision, SBL # 3-1-6.21. Preliminary Approval was granted on, 6/21/06. The 5<sup>th</sup> 6-Month Extension becomes effective on, 12/21/08.

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

**Correspondences:**

1. Letter from Village of Warwick, dated 12/8/08 addressed to the Town of Warwick Planning Board – in regards to the Cascade Road Subdivision.

Mr. Astorino: They referenced the Reservoir Law. Zen, maybe you could read that and check it out.

Zen Wojcik: Mr. Chairman, should I send them a copy of what we have been talking about here?

Mr. Astorino: I didn't read the letter yet. Let us read the letter first and see what we have.

Zen Wojcik: The applicant does show on the plan where the easement is for the protection of the reservoir. I believe that was what they were concerned about.

Mr. Astorino: Ok. That is fine. Please take care of that.

Zen Wojcik: Ok.

**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 17, 2008 Planning Board meeting.**

Mr. McConnell: Before we adjourn the meeting, I have a question. I have noticed at the Fairgrounds project there is a construction trailer located at the site. I thought our approval was conditioned on screening of construction trailers. Do we have any idea on when they would screen the construction trailer?

Mr. Astorino: Zen, could you get in touch with John Batz on that matter?

Zen Wojcik: I went up there one day when it was raining. I noticed that they were moving some things around. I have a meeting tomorrow with Tim the construction manager for the project. We will talk about it.

Mr. McConnell: Ok.

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