

TOWN OF WARWICK PLANNING BOARD

December 19, 2007

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, December 19, 2007, at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

**PUBLIC HEARING of Black Meadow Club**

Application for site plan approval for the construction and use of a 4-foot high chain link fence running a total of 4100 feet and clearing over ¼-acre in the Ridgeline Protection Overlay District, situated on tax parcels S 23 B 1 L 2 and S 23 B 1 L 30; project located on the eastern side Black Meadow Road 3600 feet north of East Ridge Road, in the LC/RU zones, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the 11/21/07 Planning Board meeting.

Representing the applicant: Michelle Babcock from Jacobowitz and Gubits. James Clearwater from MJS Engineering.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
  - A. Status of legal proceedings.
3. Applicant has cleared approximately 0.8 Acres of trees and vegetation on their property along a portion of their boundary for the purpose of constructing a fence. The site is located in the Ridgeline Overlay District where permission from the Planning Board is required for clearing in excess of 0.25 Acres.
  - A. Plan shows fence to be constructed in two sections, A & B. Board to discuss special conditions for fencing in each section.
  - B. In section B, show the limits of clearing and the location of a fence along the "Boundary as per Hambleton Subdivision Map". Provide photos along the boundary line and supplement the Site Investigation & Report for potential environmental impacts of constructing a fence along this boundary. Revise the fence construction note to the Planning Board Attorney's specifications.
  - C. On Drawing C-3, note the potential number of trees to be removed along both the "Boundary as per Black Meadow Record Deed" and the "Boundary as per Hambleton Subdivision Map".
4. Applicant has complied with the requirements for a Timber Harvest Permit per §164-47.1F(3)(c)[2][a] by providing information and notes on the plans. Applicant shall obtain all building department permits for tree clearing and fence construction.

**BEFORE FINAL APPROVAL:**

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

The following comment submitted by the Conservation Board, dated 12/19/07:

Black Meadow Club - After reviewing the Supplemental Fence Report from Mr. Robert G. Torgersen, LA, CPESC, dated November 27, 2007, the CB is satisfied that the proposed black chain link, 4-foot fence which will clear the surface by 3 to 6 inches to enable the passage of small animals and reptiles does not pose an adverse environmental impact and will not be visually detrimental.

The following comment submitted by the ARB:

Black Meadow Club – None Submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. We have received a report on the potential impacts of the proposed fence, wildlife, and esthetics within the area. The Planning Board had some comments on that. The applicant has provided us with a secondary update and clarification on some of those points. It is my understanding that we are awaiting now a further report that was a result of a field visit that was taken by the applicant. It was my understanding that was going to be submitted today.

Mr. Astorino: Yes.

Michele Babcock: I have it here today to submit to the Planning Board.

Mr. Astorino: We will take that submittal. We will have it for our next work session.

Comment #2: Applicant to discuss project.

A. Status of legal proceedings.

Michelle Babcock: I have nothing new to report.

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

A. Plan shows fence to be constructed in two sections, A & B. Board to discuss special conditions for fencing in each section.

Mr. Astorino: At the work session, you discussed the property in question regarding the line. Is that what we are discussing here?

Zen Wojcik: Part of that and any other conditions that the Board might want to place on the construction of the fence.

Mr. Astorino: As far as leaving it up a couple of inches. Is it something to that effect?

Zen Wojcik: The applicant had made some revisions.

Mr. Astorino: I believe that is on your plans.

Michelle Babcock: Correct.

Mr. Astorino: Ok. We haven't reviewed them yet. I am sure that was something that we required.

- B. In section B, show the limits of clearing and the location of a fence along the "Boundary as per Hambletonian Subdivision Map". Provide photos along the boundary line and supplement the Site Investigation & Report for potential environmental impacts of constructing a fence along this boundary. Revise the fence construction note to the Planning Board Attorney's specifications.

Michelle Babcock: We have revised the plan to show both the clearing areas along both boundaries as the Board had requested as well as revised the note. There was one thing that we had done. We had both Jim and Bob go out and walk the entire disputed boundary area. They took pictures within that entire area. Bob's report encompasses that entire property. We thought that it would be prudent for him to look at everything. Although, it would be nice to say that the fence would be here or there, the court might decide for it to be somewhere in the middle. We took that possibility and looked at all possibilities. We noted the clearing limits would be only a maximum of 15 feet. The estimated number of trees to be removed would be 25 trees regardless of where we put them anywhere within that location.

Mr. Astorino: Do you show that on the revised plans?

Michelle Babcock: Yes. We also have it as a note on the plan.

Mr. Astorino: Great.

Mr. Bollenbach: Section B, was that an area that had already been cleared in that disputed area?

James Clearwater: No. There was nothing cut in Section B.

Mr. Bollenbach: Nothing has been cut in Section B.

James Clearwater: No.

Mr. Bollenbach: When Marinucci was here, didn't he say that trees were cut along his property?

Mr. Showalter: I think that was done on Section A.

Mr. Astorino: Yes. That was Section A.

Mr. Bollenbach: Ok. I was just wondering if any mitigation would have been required in that area. Ok.

- C. On Drawing C-3, note the potential number of trees to be removed along both the “Boundary as per Black Meadow Record Deed” and the “Boundary as per Hambletonian Subdivision Map”.

Michelle Babcock: That has been done.

Comment #4: Applicant has complied with the requirements for a Timber Harvest Permit per §164-47.1F(3)(c)[2][a] by providing information and notes on the plans. Applicant shall obtain all building department permits for tree clearing and fence construction.

Michelle Babcock: We agree.

**BEFORE FINAL APPROVAL:**

Comment #5: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes. Note the recordation date and provide a copy of the recording receipt to the Planning Board Attorney.

Michelle Babcock: We agree.

Comment #6: Pay performance bond and construction inspection fee for tree clearing and mitigation landscaping.

Michelle Babcock: We agree.

Comment #7: Pay outstanding review fees.

Michelle Babcock: We agree.

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

Mr. Bollenbach: I was looking at the application. I gave a call to Michelle earlier today. I was looking at the application and was a little confused. I tried looking at the vicinity map. Zen, the vicinity map on here, I don't know what that was taken from. The vicinity map is fine, but we generally have a location map which is the tax map, so that you could see which SBL adjoin whoever. Maybe, we could add a location map. That would be a copy of the tax map. That would lead me to my next question. SBL # 23-1-28.2 is what I believe is on the application. That does not appear on the agenda blurb. It is lot 2 and lot 30 that should appear on the header on the map. We need to get the SBL numbers all squared away. I know that it is that roughly little 5-acre section that is in that disputed area. That is tax lot 30. I believe the other one is lot 2, which is behind that. I think it is 28.2, which is about another 150 or 160-acre portion. It does not jive. You would have to take a look at that.

Michelle Babcock: Ok. The application regarding lot 28.2 that is just noted that is the contiguous holding in the same ownership.

Mr. Bollenbach: Which ones are listed?

Michelle Babcock: Lots 2 and 30 are listed.

Mr. Bollenbach: Ok. I was mistaken on it. Maybe, we could do it on the location map.

Michelle Babcock: Ok. There were so many that they provided it by addendum.

Mr. Bollenbach: Ok. Let's put that on a location map so we could readily identify it.

Michelle Babcock: Yes.

Mr. Astorino: Does the Board have anything further?

Connie Sardo: Mr. Chairman, we have a Conservation Board comment, dated 12/19/07.

Mr. Astorino: Ok. We have that. This is a public hearing. If there is anyone in the audience wishing to address the Black Meadow Club application, please rise and state your name for the record. Let the record show no public comment. We just received some information that needs to be reviewed. I would suggest to the Board that we adjourn this public hearing to the 2<sup>nd</sup> meeting in January.

**Mr. Singer makes a motion to adjourn the Black Meadow Club public hearing to the January 16, 2008 Planning Board meeting.**

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

Michelle Babcock: Thank you. Happy Holidays!

**PUBLIC HEARING OF Estate of Baum c/o Kary Jablonka, Executor/Dayspring Community School, Inc., c/o Lee A. Squires-Sussman**

Application for preliminary approval of a proposed 11-Lot cluster subdivision (9-New Residential Lots), entitled "*Lands of Dayspring-Baum*", situated on tax parcels S 31 B 2 L 2 and L 8; parcels located on the southerly side of West Ridge Road 1000+ feet west of Route 94 and 17A, in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Kirk Rother, Engineer. Jay Myrow, Attorney.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Dayspring/Baum public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Complete and submit the Visual EAF.
2. Applicant to discuss project.

**YIELD PLAN (6/25/03, LAST REVISED 11/17/07)**

3. No further comment. Board to consider Yield Plan.

**CLUSTER PLAN (11/9/04, LAST REVISED 11/17/07)**

4. Provide a pavement design, based on the results of subbase testing per Appendix E, ¶C, D, & F. Revise the Typical Roadway Section (sheet 9) accordingly.
5. Board to discuss waiver for overlength cul-de-sac (§137-19K maximum length is  $6 \times 250' = 1500' < 1645'$  proposed).
6. Board to discuss special approval of 14% roadway grade (Appendix E, ¶B(4)).
7. The applicant has submitted a Geotechnical Soil Evaluation Report..
  - A. The Report notes that depth to rock is generally shallow, and that the top few inches of the rock may be rippable by an excavator. Applicant to supplement the Report with an additional discussion proposing the method of cut excavation, including an estimate of the amount of material to be so removed and the duration of the removal process.
  - B. Removal of rock for the construction of ponds 2A and/or 2B may be different than excavation for the road. If blasting is considered, submit a Blasting Plan for the Town Engineer's review, comment and approval.
  - C. The Report does not explicitly discuss the suitability of the onsite rock for construction of road base. If this is the intent, supplement the Report to show how the rock meets the Town's design specifications.
  - D. The maximum cut slope noted in the Report is 1.8:1. Revise the typical road cross-section, micropool pond cross-section, and notes on the grading plans for consistency.
8. Place the following note on the plans; "Embankment slopes shall not be constructed steeper than 2:1, as shown on this approved plan. Certification signed and sealed by a NY licensed Professional Engineer shall be provided to the Building Department that the slopes have been properly compacted and graded according to the approved plan. Topsoil shall be placed on the finished slope, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slope shall be periodically

watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). Rock cut slopes steeper than 2:1 shall not be constructed without certification from a NY licensed Professional Engineer that the exposed rock face has been inspected, that the slope is stable and that the exposed rock will have good resistance to weathering. The individual property owners are responsible for maintaining the continued stability of the slopes.”

9. Revise the typical section detail for the proposed road and proposed stormwater management basins (2A, 2B & 4A) to show a maximum limit of excavation, to the Town Engineer’s specification. Place the following note at these details: “Excavation beyond the limit shown on these plans requires a Commercial Excavation Permit from the Town of Warwick Building Department and compliance with the standards in §150-6 of the Town Code.”
10. Insert the following note as Note 1 of the Construction Sequence Notes (in the plans and the SWPPP Report): “Attend a pre-construction meeting with the Town Engineer’s representative and provide a schedule for construction. Schedule must be regularly updated as construction progresses.”
11. Provide the following note on the plans: “Consistent with the NYSDEC requirements for SPDES General Permit #GP-02-01 for Stormwater Discharges for Construction Activities, the applicant shall complete, sign and submit to the Town of Warwick Building Inspector copies of the “Monthly Summary of Site Inspection Activities” and “Quarterly Summary of Site Inspection Activities” reports.”

**SWPPP COMMENTS (SWPPP DATED FEB 2007; LAST REVISED NOV. 2007):**

12. The SWPPP Report notes throughout that stormwater management at this site is accomplished via “two proposed type ‘P1’ micropool wet ponds ... for the northerly portions ... and one type ‘P2’ wet pond ... for the southerly portions of the site”. This is not the stormwater management scheme reflected on the plans. Revise the Report or the plans for consistency.
13. Provide a section view for Pond 2A
14. At stormwater management ponds, indicate a pond buffer extending out 25 feet from the maximum water surface elevation.
15. Prepare a Landscaping Plan for the stormwater ponds and buffer areas consistent with the design manual.
16. Applicant to provide signed and sealed copy of the final revised SWPPP.

**BEFORE FINAL APPROVAL:**

17. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at corners of open space.
18. Provide 9-1-1 addressing.
19. Pay parkland fees.
20. Pay performance bond and construction inspection fee for road, stormwater management facilities, and erosion control.
21. Pay outstanding review fees.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-19K	Waiver for overlength cul-de-sac. Maximum length is 1,500 feet.
§168 Appendix E ¶B (4)	Waiver for private road grade exceeding 14%.

The following comment submitted by the Conservation Board, dated 12/19/07:

Dayspring/Baum Subdivision – The CB has no further comments on this application.

The following comment submitted by the ARB, dated 12/19/07:

Dayspring/Baum Subdivision – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been reviewing this application for quite some time now as Lead Agency. We have been using the full EAF to review the potential impacts of the project. There are a number of questions and issues that are reflected in the review comments tonight.

A.) Complete and submit the Visual EAF.

Kirk Rother: Ok.

Comment #2: Applicant to discuss project.

Kirk Rother: The application is for a proposed 11-lot cluster subdivision with approximately 66 acres of land. It decomposes (2) separate parcels, one being the Estate of Baum and the other being Dayspring School. This is being pursued as a cluster subdivision. We propose to leave 50% of the parcel as open space. The access to the lots, we are proposing a private road. One large parcel would remain as 33.5± acres, which currently has the Dayspring School on it.

#### **YIELD PLAN (6/25/03, LAST REVISED 11/17/07)**

Comment #3: No further comment. Board to consider Yield Plan.

Mr. Astorino: Does anyone have any issues on the yield plan? Is the Board in consensus on the yield plan?

Mr. Kowal: Yes.

Mr. McConnell: Yes.

Mr. Singer: Yes.

Mr. Showalter: Yes.

Mr. Astorino: Ok. Everybody is good with the yield plan. We have a consensus on the yield plan.

#### **CLUSTER PLAN (11/9/04, LAST REVISED 11/17/07)**

Comment #4: Provide a pavement design, based on the results of subbase testing per Appendix E, ¶C, D, & F. Revise the Typical Roadway Section (sheet 9) accordingly.

Kirk Rother: Ok.

Comment #5: Board to discuss waiver for overlength cul-de-sac (§137-19K maximum length is  $6 \times 250' = 1500' < 1645'$  proposed).

Mr. Astorino: Kirk, what is the reason for that?

Kirk Rother: It is because of the shape of the parcel. We wanted it to work with the Baum Estate. It eliminates having (4) flag lots that determines the cul-de-sac.

Mr. Bollenbach: Did you show a conforming plan?

Kirk Rother: The yield plan is a conforming plan. We didn't show the 1500-foot long cul-de-sac on the cluster plan. We could show that on the cluster plan.

Mr. Astorino: Just demonstrate it that it could be done that way.

Mr. Bollenbach: It could have been done to comply, but to grant the waiver would be more environmentally sensitive.

Kirk Rother: No problem.

Comment #6: Board to discuss special approval of 14% roadway grade (Appendix E, ¶B(4)).

Mr. Bollenbach: That is a similar type thing. Show it as yes, you could do it to comply.

Mr. Astorino: But, the cuts and fills...

Mr. Bollenbach: They would be more of an environmental impact.

Kirk Rother: We have seen a 10% grade. The cuts and fills are substantially greater. Mr. Chairman, I have no problems with the rest of the comments.

Mr. Astorino: Let us go through the cluster comments. The SWPPP comments, we will put in for the record. This is a public hearing. We want the public to hear this.

Comment #7: The applicant has submitted a Geotechnical Soil Evaluation Report..

- A. The Report notes that depth to rock is generally shallow, and that the top few inches of the rock may be rippable by an excavator. Applicant to supplement the Report with an additional discussion proposing the method of cut excavation, including an estimate of the amount of material to be so removed and the duration of the removal process.

Kirk Rother: Will do.

- B. Removal of rock for the construction of ponds 2A and/or 2B may be different than excavation for the road. If blasting is considered, submit a Blasting Plan for the Town Engineer's review, comment and approval.

Mr. Astorino: You don't know that yet.

Kirk Rother: We anticipate that we will blast. We will prepare a report.

- C. The Report does not explicitly discuss the suitability of the onsite rock for construction of road base. If this is the intent, supplement the Report to show how the rock meets the Town's design specifications.

Kirk Rother: Ok.

- D. The maximum cut slope noted in the Report is 1.8:1. Revise the typical road cross-section, micropool pond cross-section, and notes on the grading plans for consistency.

Kirk Rother: Will do.

Comment #8: Place the following note on the plans; "Embankment slopes shall not be constructed steeper than 2:1, as shown on this approved plan. Certification signed and sealed by a NY licensed Professional Engineer shall be provided to the Building Department that the slopes have been properly compacted and graded according to the approved plan. Topsoil shall be placed on the finished slope, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slope shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). Rock cut slopes steeper than 2:1 shall not be constructed without certification from a NY licensed Professional Engineer that the exposed rock face has been inspected, that the slope is stable and that the exposed rock will have good resistance to weathering. The individual property owners are responsible for maintaining the continued stability of the slopes."

Kirk Rother: No problem.

Mr. Bollenbach: When we eventually get to the declarations, it will be individual property owner's responsibility. That should be incorporated into the declarations.

Mr. Astorino: I agree.

Comment #9: Revise the typical section detail for the proposed road and proposed stormwater management basins (2A, 2B & 4A) to show a maximum limit of excavation, to the Town Engineer's specification. Place the following note at these details: "Excavation beyond the limit shown on these plans requires a Commercial Excavation Permit from the Town of Warwick Building Department and compliance with the standards in §150-6 of the Town Code."

Kirk Rother: Right. For the record, we have no intention on removing material from the site.

Comment #10: Insert the following note as Note 1 of the Construction Sequence Notes (in the plans and the SWPPP Report): "Attend a pre-construction meeting with the Town Engineer's representative and provide a schedule for construction. Schedule must be regularly updated as construction progresses."

Kirk Rother: Ok.

Comment #11: Provide the following note on the plans: "Consistent with the NYSDEC requirements for SPDES General Permit #GP-02-01 for Stormwater Discharges for Construction Activities, the applicant shall complete, sign and submit to the Town of Warwick Building Inspector copies of the "Monthly Summary of Site Inspection Activities" and "Quarterly Summary of Site Inspection Activities" reports."

Kirk Rother: Will do.

Mr. Astorino: Regarding the SWPPP comments, Zen are there some issues with the SWPPP that still needs to be resolved?

Zen Wojcik: Yes. There is an inconsistency between the report and the plans. The engineer will resolve that.

Mr. Astorino: Ok. We will list SWPPP comments 12 through 16 for the record.

**SWPPP COMMENTS (SWPPP DATED FEB 2007; LAST REVISED NOV. 2007):**

Comment #12: The SWPPP Report notes throughout that stormwater management at this site is accomplished via "two proposed type 'P1' micropool wet ponds ... for the northerly portions ... and one type 'P2' wet pond ... for the southerly portions of the site". This is not the stormwater management scheme reflected on the plans. Revise the Report or the plans for consistency.

Comment #13: Provide a section view for Pond 2A

Comment #14: At stormwater management ponds, indicate a pond buffer extending out 25 feet from the maximum water surface elevation.

Comment #15: Prepare a Landscaping Plan for the stormwater ponds and buffer areas consistent with the design manual.

Comment #16: Applicant to provide signed and sealed copy of the final revised SWPPP.

**BEFORE FINAL APPROVAL:**

Comment #17: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at corners of open space.

Kirk Rother: Yes.

Comment #18: Provide 9-1-1 addressing.

Kirk Rother: Will do.

Comment #19: Pay parkland fees.

Kirk Rother; Yes.

Comment #20: Pay performance bond and construction inspection fee for road, stormwater management facilities, and erosion control.

Kirk Rother: Ok.

Comment #21: Pay outstanding review fees.

Kirk Rother: Will do.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-19K	Waiver for overlength cul-de-sac. Maximum length is 1,500 feet.
§168 Appendix E ¶B (4)	Waiver for private road grade exceeding 14%.

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

Mr. Kowal: I have a question for Kirk. On lots 10 through 7 there are those triangular symbols, what do they mean?

Kirk Rother: Those are the wetland flags.

Mr. Kowal: Ok.

Mr. Astorino: Those are the whole flags in the wetlands in that corner.

Mr. Bollenbach: Zen, there was one other item that you brought up that we do have active agricultural use.

Zen Wojcik: In the Board's packet there is a memo from Tectonic, addressed to the Planning Board, dated 12/18/07. This memo is in regards to a telephone conversation that I had today with Mr. John Sanford, adjoiner of the Baum property. Mr. Sanford had a number of concerns. He could not be here tonight. In lieu of him submitting a letter, I had written a memo regarding Mr. Sanford's concerns. Mr. Sanford's concerns are as follow:

1. *Mr. Sanford operates an active dairy farm on his property. However, in the future, when he or his family no longer wishes to continue farming, the land may be subdivided. His property fronts on NYS Rtes. 94 & 17A but it rises steeply from the highway, making access difficult. He asked if a stub road could be extended from the proposed cul-de-sac to his property line for the use of any future development.*
2. *A stone wall separates the Baum parcel from the Sanford parcel. When cattle and pastured in the adjoin field, Mr. Sanford erects a temporary electric fence a tractor's width in on his side of the stone wall. However, he is concerned that the new residents may trespass onto his fields. I informed him that the Board can require a fence to be erected by the subdivider on the residential side of the stone wall to restrict access.*
3. *Mr. Sanford was concerned that his new neighbors may complain about his ongoing agricultural operations. I informed him that all the deeds will include the Town's Agricultural Protection Notes and that adjoining homeowners must sign an acknowledgement, which is filed with the Town Clerk, that they understand the notes. In addition, the adjoining homes must be buffered from the adjoining agricultural lands.*
4. *The Columbia Gas Pipeline and the new Millennium Gas Pipeline run on Mr. Sanford's property adjacent to the Baum and Dayspring property line. This feature is currently not shown on the plans.*

*I also informed Mr. Sanford that this application is currently before the Planning Board for preliminary cluster subdivision approval. There will be additional opportunities for adjoiners to review and comment on the applicant's plans before the Planning Board considers the final approval application.*

Mr. Bollenbach: A stub road is a requirement in our subdivision regulations. If the Board is going to waive it, there would have to be some legitimate reasons.

Mr. Astorino: That could be something on another submittal from the applicant to see how that lays out.

Mr. Bollenbach: Yes.

Mr. Singer: Isn't it shown on the plan already?

Mr. Astorino: No.

Mr. Bollenbach: No. It is not.

Kirk Rother: I am going to say off the cuff that we would have no objections to a stub road. What would be different on this plan from other projects that I have personally done with the Town was that they were all public roads. This is a private road.

Mr. Astorino: There is a limit of how many homes could go on a private road. Is that correct?

Mr. Bollenbach: This being a dead end... Yes.

Mr. Astorino: Ok.

Kirk Rother: There is also a question that this is private property so they would have to enter into a maintenance agreement.

Mr. Bollenbach: It would be part of the maintenance agreement.

Mr. Astorino: Essentially, that stub would be a paper stub until the landowners could reach an agreement.

Mr. Bollenbach: No. The agreement would be put in place right now. The agreement is to be in place.

Mr. Astorino: Would it be between the two landowners?

Mr. Bollenbach: No, all lot owners. The parcel in the rear has the right to access over that particular area. If they develop it, they will improve that section of the road.

Jay Myrow: No. We can't be compelled to do that.

Mr. Bollenbach: No. I said the adjoiner would be compelled to improve it. You are compelled to provide it.

Mr. Singer: Into a private road?

Mr. Bollenbach: Yes. It is. Stub roads shall be provided.

Jay Myrow: Does it say for what purposes, if it never becomes a public road?

Mr. Bollenbach: I am not going to comment further. Stub roads are required. We could go from there.

Mr. Astorino: That is something we would have to look into at a work session.

Zen Wojcik: The other point is the agricultural buffer, which is not shown on the plan. The engineers had designed the layout so that the closest house is 100 feet away from the line. The Code says that we would like to have an agricultural buffer between 200 and 100 feet. It would be up to the Board if they would be happy with 100 feet. There is also something troubling in the Code. John, this was something that we talked about the other day. This is in regards to §164-41.1(G)(4) Active agricultural land with farm buildings may be used to meet the minimum required open space. It talks about the setback. A minimum setback of at least 100 feet, if practical, 200 feet deep. Then, it states that no clearing of trees or understory growth shall be permitted in this setback (except as may be necessary for street or trail construction). Currently, there are (2) septic systems that are planned to be built within the buffer area. John, I don't know if that is consistent with the Code or not.

Mr. Bollenbach: Yes. The Board could take a look at it. You are looking at 200 feet. You would take a look to see what type of buffering is currently there. How thick is the hedgerow or the woods? If you are proposing only a 100-foot setback plus you are clearing additional lands, the Board might want to take a closer look at that. We might want to require additional plantings.

Mr. Astorino: Maybe, the applicant could tweak on how close they are with the buffer. Maybe, they could move it out. That is something that could be discussed with the applicant. Does the Board have anything further? This is a public hearing. If there is anyone in the audience wishing to address the Dayspring-Baum application, please rise and state your name for the record.

Dawn Nazari: My property abuts to the back of Dayspring School. I wrote a letter expressing my concerns.

Mr. Astorino: Do you want to submit that for the record?

Dawn Nazari: Yes.

Mr. Astorino: Do you want to read it for the record?

Dawn Nazari: No. I don't want to read it.

Mr. Astorino: I will read your letter for the record. The letter is addressed to the Planning Board from Dawn and Edwin Nazari, dated 12/19/07. The letter is stated as follow:

*Dear Planning Board,*

*We are neighbors of the proposed subdivision. We would like to voice our concerns regarding this proposed project. Drainage and traffic are our deepest concerns. We would like to make the board aware of our concerns and submit this letter to the board for their records.*

*Drainage from the property in its current state has a great effect on our property now. During strong rainstorms the water flows off this property, like a river, cutting through our backyard, and down to Old Ridge Road. We are afraid that if more trees are cut and the land compromised our property will be greatly affected by even more mountainous runoff. We strongly suggest that an environmental impact study be done, and a professional engineering study also be conducted to insure that our property and our neighbors will not be affected in a negative way.*

*Traffic is another concern, as the driveway to this property is literally just beyond our backyard. The proposed nine new houses, will attract numerous cars to this "driveway". Is this "driveway" capable of handling two-way traffic? Will this driveway be converted to a road? What will the speed limit be? Will they be widening the roadway? How will the construction vehicles get to the property? There are too many questions that need to be answered. This property was not meant to be developed, it was as I am aware to be left, untouched, as nature had intended.*

*Thank you for understanding our concerns.*

*Sincerely,*

*Dawn and Edwin Nazari*

Mr. Astorino: We will start from the beginning. I could give you a few answers on this tonight. Regarding drainage, they would have to prepare a SWPPP. If you have a problem now, it will not correct that problem. But, it would insure that it would not be any worse. It is stated by our Engineers that no more water would be on the property than what is currently there now after it is developed, post-development state. As far as the engineering studies, that is why they are here. We are going through all of their studies. The driveway will become a private road. It has to meet certain specifications.

Dawn Nazari: I took a look at the plan. It really doesn't go behind my house.

Mr. Astorino: Ok. That will be a private road that is proposed by the applicant to certain specifications and requirements that has to be done. We talked about the grade and what have you. That is something the Board has to look at. The Board will have to take a look at the cuts and fills on what we will allow or not allow. It is still in the process. This will not be settled this evening. There will be more submittals to the Board. We are having this public hearing to get the public's input. We will keep this letter for the record.

Dawn Nazari: Thank you.

Zen Wojcik: Mrs. Nazari brought up about the driveway being the driveway to the Dayspring School.

Dawn Nazari: Yes.

Zen Wojcik: That will continue to be a driveway just for that building, not for any of the others.

Dawn Nazari: Right. I understand that now from looking at the plans.

Mr. Astorino: Is there anyone else wishing to address the Dayspring-Baum application?

Frank, Sr., and Frank, Jr., Compitello come up in front of the Planning Board to speak their concerns.

Frank Compitello, Jr.: We have concerns about runoff. We built our home 30 years ago. We have a large shale trench bordering that property with 2" stone. We are concerned with the removal of trees and wash down. We are concerned about how that would affect our property. We are concerned about any blasting. We are concerned about how it might disturb our wells and our well casing. As it is on the other side of the property, they had to clear some land for a house near Cornfield Lane. They had to do some blasting for that. That blasting did disturb our water for some period of time. Blasting for (9) more homes, we are afraid something might happen.

Mr. Astorino: We require a report. We have not received that yet.

Frank Compitello, Jr.: Right.

Mr. Astorino: As far as the stormwater, that requires the same thing.

Frank Compitello, Jr.: I see that there are plans made for that. Our concern is in the construction phase.

Mr. Astorino: Believe or not that entails the construction phase.

Frank Compitello, Jr.: Eventhough catch basins are proposed, what about changing the contours?

Mr. Astorino: That is all taken into account.

Frank Compitello, Jr.: Also, the removal of trees, how much water would that take?

Mr. Astorino: That all goes to a 100-year storm.

Frank Compitello, Jr.: Ok.

Mr. Astorino: We don't have that finalized yet.

Frank Compitello, Sr.: That is a concern. Between our driveway and the existing driveway, there was quite a wooded area. How much of that will be removed. The woods would act as a buffer for drainage.

Mr. Astorino: That is all on the plans. Kirk, as far as the existing drive to the school, could you show Mr. Compitello the plans?

Kirk Rother shows the plans to the Compitello's. He shows them where they are proposing the road and explains about driveways and runoff. The Compitello's wanted to know how many trees would be removed. Kirk Rother told them that they are not proposing to remove any trees. The Compitello's seemed satisfied about the driveway that will be abandoned and about not any removal of trees.

Frank Compitello, Sr.: Will each lot have their own individual wells and septic?

Mr. Astorino: Yes.

Frank Compitello, Sr.: We have been living here for about 30 to 34 years. We have had a heavy rainstorm some years ago. I had a contractor come in and dig more than a 2-foot trench called a French drain. He put this around the perimeter of our backyard. He backfilled it with 2" stone. We had this heavy rain. It washed the stones right down the driveway.

Mr. Astorino: That is why the applicant is preparing a Stormwater Pollution Prevention Plan. Once this plan is complete, it is prepared by the applicant, but reviewed by our professionals to make sure that this would take a 100-year storm. It would encompass like the rains that we had in April to handle it. It is not going to make it any better. If you have problems now, you will still have those problems. It will not increase. As you have pointed out, if you cut trees, it will not increase the level of the problem.

Frank Compitello, Sr.: Right. Regarding the proposed driveway, you have answered our question. It will not be so close to our driveway. I don't know what else to ask.

Mr. Astorino: The process is still ongoing.

Frank Compitello, Sr.: Ok. Thank you.

Mr. McConnell: I want to ask you a question. The house that was built when there was blasting done as you have mentioned, you said that you had some issues with your well. What were those issues? How were those issues resolved?

Frank Compitello, Jr.: Cloudiness in the water. That did subside a little bit after the blasting.

Mr. McConnell: How long after it?

Frank Compitello, Sr.: It was about a month after.

Frank Compitello, Jr.: Yes. It was about a month.

Mr. McConnell: Ok. It did not crack the casing. It did not change the production of water.

Frank Compitello, Jr.: No. I work for a plumbing outfit. I know about wells and water.

Mr. McConnell: Right. Did it change the volume of water?

Frank Compitello, Jr.: No. We are just worried that the blasting might change something.

Frank Compitello, Sr.: What if they start drilling and suddenly our well collapses, nobody could guarantee that you wouldn't go into the line that is feeding our well.

Mr. Astorino: No. You are absolutely correct.

Frank Compitello, Sr.: In any event, what recourse does a person have?

Mr. Astorino: You really don't have a recourse. We could require the applicant to do well testing and monitoring. We have done testing and monitoring neighboring wells in the past to see if it would affect.

Frank Compitello, Sr.: So, you will eyeball everything.

Mr. Astorino: We are on top of it.

Mr. Bollenbach: Also, the OCHD will be reviewing the wells. There will be test wells that will be required.

Frank Compitello, Jr.: Ok.

Frank Compitello, Sr.: Ok. Thank you.

Mr. Astorino: Is there anyone else in the audience wishing to the Dayspring-Baum application?

Greg and Meg Pieper come before the Planning Board to express their concerns.

Meg Pieper: We have a letter to submit to the Planning Board, dated 12/19/07.

Mr. Astorino: Submit a copy of that letter to our secretary so that we have it for the record.

Greg and Meg Pieper submit their letter, dated 12/19/07 to the Planning Board. The letter is stated as follow:

***Public Hearing- Dayspring/Baum. Comments from Pieper at 7 Cornfield Lane 12/19/2007***

*We have been following the progress of the application for approval of the proposed cluster subdivision referred to as the Dayspring-Baum project. We have previously sent to the Board two letters outlining some of our concerns. We are pleased to see that some of our concerns have been addressed by the Board and in the most recent update of the plans which we picked up today.*

***SOME GENERAL OPENING COMMENTS***

*1) Looking at the overall zoning map of the area, it is clear that only a few areas were deemed environmentally important enough to be classified Mountain Zone. The project in question is in*

*one of these areas. Given the concern that went into the re-zoning plan, we feel that special consideration should be given to development in this area. The zoning district map defines the purpose of the MT zone "to protect the scenic beauty of Warwick's mountainous lands by restricting development that would mar the scenic landscapes of the Town's higher elevations and by establishing a density of development appropriate to the thin and fragile soil conditions found there".*

- 2) *We support the value of clustering as it relates to new development. The goal of providing open space which benefits the community is an important one. Clustered development can also provide better and more economical means of providing services and avoiding duplication of effort.*
- 3) *We have a very hard time understanding how the clustering rules are applied in this case. We read through the Town of Warwick Clustering regulations and have also gotten additional information about the density restrictions in a MT zone when clustering is being done. We requested the board provide us with the plan that was used to calculate the project lot yield. However, we have not been given this information.*

*Earlier plans show how the 50% preserved land was calculated to show adherence to the rules. In reading the material we can see how this may justify a 4 acre minimum lot size (density bonus). There is even an allowance in the cluster regulation in MT zone for a 3 acre minimum lot size when "transfer of development rights base density" occurs. Even at this 3 acre minimum we cannot understand how credit is claimed for both the density bonus and the transfer of development right bonus (seems like a double credit).*

- *Given the fact that the plans call for several lots that are less than 2 acres in a MT zone, we request that you explain this process.*
- 4) *We strongly feel that the owner of the property has a right to develop this land. But we do have a number of concerns that we would like the board and this audience to be aware of and consider:*

#### **NUMBER AND LOCATION OF PROPOSED LOTS**

*It is clear that the application of clustering in this case has created a plan where the total number of new lots is pushed to one side and the majority of these lots will have negative visual impact on our property and that of our neighbors. Our house ends up with **three** new houses in lots adjacent to our property with a total acreage of a less than 6 acres (and this is in an area that is in the MT zone).*

- *We respectfully request that one of the three lots directly adjacent to our property be removed (lots 7, 8 or 9) to make larger lots of the remaining two. Consideration might for example be given to creating another lot on the other side of the road where it will have no impact on existing neighbors.*
- *We would like to be assured of the minimum 50 foot rear set back from the external boundary that is shown on the plans means that this is an area in which existing trees and vegetation cannot be disturbed.*
- *We would like to be assured that the wetland area as delineated on the most recent plan cannot be disturbed in anyway. We note that this delineation was missing from prior plans and this has been a special area of concern for us. Is any buffer zone around the wetland required under the regulations?*

- *We would like to be assured that the site of the septic systems cannot be moved from where they are shown on the plans without Board approval.*
- *How much can houses be moved without board approval? Can we request that they cannot be moved from the place sited on the map?*

### **GEOTECHNICAL SURVEY**

*At a Planning Board meeting on this matter, a Geotechnical Survey was requested.*

- *Has this survey been done?*
- *We are concerned that blasting will be required to do the excavation need on this property. What conclusions did the Board reach from the survey?*

### **PROPOSED ROADWAY**

*The Road proposed has a 14% grade with significant excavations required. This is not a driveway...this is a ROAD to a development of houses which emergency vehicles need to be able to easily travel on. This ROAD leads into a small winding county road (West Ridge Road).*

*We are further concerned about the drainage onto West Ride that would result from this development. There is already a drainage issue on West Ridge and standing water is apparent on some sections of the road frequently (there are ponds on each side of the road).*

- *Please describe the proposed Road and the drainage improvements that will be made.*
- *The plans show a “water quality pond” at the foot of the road. Is this going to be pond containing water? What dangers does this create for drivers on West Ridge Road (there was already an event this winter when someone had to be pulled out of a ditch on the side of that road) How deep is this new ditch or pond?*
- *Having this steep road lead into a winding country road creates additional problems where there are already significant visibility and drainage issues. Please address if this kind of grade is commonly acceptable for a road such as this.*

### **WHAT COMES NEXT**

- *What comes next in this process? Is this a preliminary public meeting or is this the only public hearing that there will be? What other approvals are required?*

Meg Pieper: As the Board knows, we have been following the proposed development. We have sent a couple certified letters expressing some of our concerns. We do appreciate the fact that in the recent plans that we picked up today there were some changes made that did address at least one of the concerns that we have made about the fact that the wetland was not shown on any of the previous maps. We still have some comments that we would like the Board to consider and for the audience to hear. We looked at the overall area. It is a Mountain zone area. It was obvious that when the zoning plan was done, some special consideration was given to the Mountain area because of their environmental issues. The Zoning District map defines the purpose of the MT zone “to protect the scenic beauty of Warwick’s mountainous lands by restricting development that would mar the scenic landscapes of the Town’s higher elevations and by establishing a density of development appropriate to the thin and fragile soil conditions found there.” The zoning was done for a reason. Part of that reason is the environmental issues of this zone. We do understand the concept of clustering as it relates to new development. The goal of providing open space which benefits the community is an important one. Clustered development can also provide better and more economical means of providing services and

avoiding duplication of effort. We have a very hard time understanding how the clustering rules are applied in this case. We read through the Town of Warwick Clustering Regulations and have also gotten additional information about the density restrictions in the MT zone. We go down the map and chart and see how earlier plans show the 50% of the open space that was preserved. Then you go down the chart and see how this may justify a 4-acre minimum lot size because of the density bonus. Then there is another sub-clause with allowances for cluster density and for transferred development rights that go down to 3-acre lots.

Mr. Astorino: You are in the MT zone. I think you are reading a little too much into it. A conventional subdivision is 5-acre lots.

Meg Pieper: Correct.

Mr. Astorino: That is if you were to do a conventional subdivision. This application is a proposed cluster subdivision. It goes down to 4 acres on a yield plan. They layout the property on the yield plan. You could stop into the Planning Department and take a look at all of this. On the yield plan, they layout the whole property with 4-acre lots. They fit in their septic, wells, and road. There are no waivers on the yield plan. It has to be done properly. We cannot grant any waivers on a yield plan.

Meg Pieper: That has been done.

Mr. Astorino: Yes. That has been done. That gives us the lot count for the cluster. Now, the cluster gets flexible. You could make a lot that is 2 acres or 1-1/2 acres, if they could prove it. They are not getting any additional credit. If you have (9) lots allowed under the yield plan, under the 4 acres, which is what they are allowed because they got the density credit from 5 acres to 4 acres. They could get (9) lots. They would prove that to us. Now, on the cluster, they have to keep a minimum of 50% of open space. They have done that. Those lots can be smaller than 4 acres. Those lots could be 2 acres, 1-1/2 acres whatever fits in there with their well and septic and how their soils are. The limiting factor will be the separation between wells and septic.

Meg Pieper: You have also been talking about a geotechnical survey regarding the fact that some of that hasn't been done. When you do a yield plan, isn't that part of what you are looking at?

Mr. Astorino: Exactly. We look at the primary and secondary conservation areas as far as the percentage of steep slopes. We look at what is the primary on what to stay away from like the wetlands, etc... That has all been done on a yield plan.

Meg Pieper: Ok.

Mr. Astorino: We go through a 4-Step process which enables us to get to where we are now. This is preliminary, which means just that. Now, we are getting information and concerns from the public. If there are any valid concerns, we will incorporate those concerns. As you have heard earlier, it is next to agricultural lands and issues need to be figured out like if the homes could be pulled back and if fencing will be required and the slope of driveways. All of those issues have to be factored in. It is not a done deal. All of these comments will be heard and taken into account. They will be worked in as best as practical.

Meg Pieper: Ok. We have some specific comments that we would like to make.

Mr. Astorino: Sure.

Greg Pieper: I understand what you are saying. Three of these lots roughly will end up in our backyard. Right out of our backdoor, we will have (3) backyards right in there. Clustering is a good thing. It is good for the community. It certainly doesn't help us any.

Mr. Astorino: If you look at the primary and secondary areas, this area seemed to be the best to place the homes. I don't know how many feet they are from your property line.

Zen Wojcik: The houses are 400 feet away from the Pieper's property line.

Mr. Astorino: That is not on top of you. But, in the past we have required applicants to have some mitigation plantings, which could be done at the Board's discretion on property lines. 400-feet is quite away. If you add some plantings and some denser mitigation, I am sure that 400-feet would seem a lot longer.

Meg Pieper: So, it was considered whether one of the lots that we are talking about could not be moved to the other side of the road.

Mr. Astorino: That is something that could be discussed. We could take a look at the topography and what have you.

Greg Pieper: That part of the area starts to slope up.

Mr. Astorino: Without reviewing the plan, that is something we could talk about at a work session.

Meg Pieper: That is one of the things that we would like to say. We have (3) houses, could we make it a little bit better?

Mr. Astorino: And, we could require some mitigation.

Meg Pieper: Right.

Greg Pieper: We just don't understand. When we bought our property, we knew that it would be 5-acre lots. We thought that was great having 5-acre lots. We thought that maybe we would only see one house. All of a sudden, we are going to see (3) houses. They are going to be placed on 2-acre, 1.5-acre, and 1.7-acre lots.

Mr. Astorino: Again, that is the whole clustering. It may not be adjacent to your property, but you have over 50% on this parcel that is left deed restricted untouched.

Mr. McConnell: Unfortunately, when you bought your property, it said that there were 5-acre lots behind this. You imagined something which maybe wasn't reality. There is nothing that says on how wide a 5-acre lot is going to be. You looked at it and bought best-case scenario.

Greg Pieper: After we found out that there was going to be a development there, we thought 3-acre lots. Then, we realized that we have (3) of these in our backyard.

Meg Pieper: We have (3) houses on 6 acres.

Greg Pieper: That is not fair to us.

Mr. Astorino: That is the Code. I know you researched it, but that is the Code. The Board could take a look at it and see what could be done. But, 400 feet is considerable. 75 feet is the requirement. Even if you had a 5-acre lot, and the applicant decided to place it here, yes, we could ask them to do some mitigation, but theoretically, within the code they have the right to have a home 75 feet off the line. It would be legal.

Greg Pieper: We noticed on the plans that there was a 50-foot minimum setback from the external boundaries on the plans, which shows existing trees and vegetation.

Mr. Astorino: That won't be touched.

Greg Pieper: Ok. We would like to be assured that the wetland area that was delineated on the most recent plan won't be disturbed in anyway.

Mr. Astorino: They are flagged. That is why it is done. Our Professionals also reviewed it.

Meg Pieper: Is there no buffer zone required around that?

Mr. Fink: It is ACOE wetlands.

Mr. Astorino: There is no buffer.

Greg Pieper: Could the houses be moved without Planning Board approval?

Mr. Astorino: No, only within 20 feet. What you see there is what is there.

Greg Pieper: Has the Geotechnical Survey been completed?

Mr. Astorino: Yes.

Meg Pieper: We talked about this proposed roadway. That is an area of concern for us as well. I learned more today about the percentage of grading what 14% is versus 10%.

Mr. Astorino: We have done that on other projects. It makes more sense to the environment to follow the terrain that you have that you would cut 10 feet in and hammer for six weeks straight to get the rock down and put in some retaining walls.

Greg Pieper: You would haul the rock away.

Mr. Astorino: Yes. Then, you would rake the whole landscape to "comply" with the code. The Board in my opinion has made very valid waivers in these cases. It makes sense.

Meg Pieper: Does it make sense to have a road that needs emergency vehicles at a 14% grade?

Mr. Astorino: This application has been submitted to emergency services for their comments. There are requirements that have to be followed.

Greg Pieper: I would like it to be noted that we don't have any problems with the Mr. Jablonka. It is his right to develop his property. We are looking to see if in anyway if the impact on us could be minimized.

Mr. Astorino: That is the process. That is why you are here this evening. You are here to give us your comments. As you have pointed out, those lots that are by your property, some mitigation could be required.

Greg Pieper: With our house and foundation, we were given possibility by the builder, Bill Prol to blast. We were a little concerned about our neighbors. We wound up having the basement pounded out. It took them about (4) days to get everything out of there. Having (3) houses right in the back, if they have to blast, what recourse do we have?

Mr. Astorino: Kirk, are you talking about blasting for the home sites or just the pond?

Kirk Rother: The blasting would be done at the entrance road and at one of the stormwater management ponds.

Mr. Astorino: So, it would not be individual homes.

Kirk Rother: The applicant is not necessarily married to blasting. We had a conversation with the Planning Board. We have (2) options. We could either blast or hammer. There is a separate project going on right now in the Town of Warwick where they have been hammering for a very long period of time. There was a lot of complaints with the hammering. I told the Planning Board my opinion that blasting would be a lesser impact to the neighbors just from a nuisance standpoint. There is a thorough process that has to happen in order to blast. There has to be pre-blast inspections of neighboring properties. There could be monitoring involved. I am not a blasting specialist. I am not intimately familiar with it. Blasting would be better because we could do it in a day or two and be done with it.

Mr. Astorino: We would get a blasting report. Zen, maybe you could comment on inspections of neighboring homes.

Zen Wojcik: Typically, there are inspections of neighboring homes and facilities. Sometimes there is a video record made. There is insurance that the blaster has. For example; if the blasting cracks someone's foundation, then it could be repaired. Those are some of the typical things that go on with blasting.

Greg Pieper: Ok. So, they are responsible to remediate the problem.

Zen Wojcik: Yes. That is normally the way it is.

Mr. McConnell: John, is there a strict liability on blasting?

Mr. Bollenbach: Yes. I believe there is.

Meg Pieper: I would also like to understand the water quality that you have at the foot of the road.

Mr. Astorino: That is all in the Stormwater Pollution Prevention Plan.

Meg Pieper: Ok.

Mr. Astorino: There are certain ponds that would take the stormwater runoff. It would let it leach back into the ground without direct runoff of any impurities or what have you...

Meg Pieper: How deep? If you go along that road, there are already drainage issues. We had an incident earlier this winter where someone was pulled out of one of those ditches because it is dangerous.

Mr. Astorino: This is not right on a Town road. Is that correct?

Zen Wojcik: It is near the edge of it. What the Board has done in the past when ponds are close to a road, we required fencing or guiderails.

Mr. Astorino: We required fencing or guiderails. That is not a problem.

Zen Wojcik: It would prevent it from being a nuisance.

Mr. Astorino: Exactly. That would be justifiable a guiderail if it was that close to a Town municipal road.

Greg Pieper: Once again, if the Board could take into consideration our privacy on the back end. We would appreciate that. Thank you.

Mr. Astorino: Sure. Is there anyone else wishing to address the Dayspring-Baum application?

Bernard McCrossan: My wife and I own the property on the corner of West Ridge Road and Cornfield Lane. Looking at the plan, I could see that lots 6 and 7 are right above the rear of my property. I have the steepest slope of a shale mountain. My concerns are water and runoff. I heard your remarks that it would not get any worse. When do I realize that? If in fact they do start construction, do they remediate that to prevent anything like that from happening?

Mr. Astorino: It starts at construction. All of the stormwater has to be in place before construction.

Bernard McCrossan: Ok. Secondly, my well is right behind there off that mountain. I would like to know where they are putting those septic systems on those lots.

Mr. Astorino: They would have to be so many feet away from adjoining wells and their wells. That is all taken into consideration.

Bernard McCrossan: Ok. What about the sloping? Water could go down to its lowest level.

Mr. Bollenbach: Kirk, point out on the map where your well is and where the wells and septic are on lots 6 and 7.

Bernard McCrossan: Ok.

Kirk Rother: Lot 6 is the existing Baum house. Where do you live?

Bernard McCrossan: I live on Cornfield Land and West Ridge Road. This hill slopes down to my property.

Mr. Astorino: Lot 6 is the existing home. That is not a new home. That is already there.

Bernard McCrossan: Ok. This is the first time that I have seen this.

Kirk Rother: Because you are downhill from us, the septic have to be at least 200 feet away from your well.

Bernard McCrossan: Ok.

Mr. Astorino: Do you have any problems with the existing home right now?

Bernard McCrossan: No. I don't. What about the other lot, lot 7 which is in close proximity as well of that mountain line right above me?

Kirk Rother: It would be the same thing. There is no drainage proposed to run down to the Pieper's or yourselves. It would run down towards West Ridge Road or out towards the rear of the project.

Bernard McCrossan: Ok. My property also borders 300 feet on West Ridge Road as well. That mountain is nothing but shale. I have noted in the report that there is some sort of a surface soil. Is there some sort of a depth requirement? Are we talking about 2" of soil and everything else is to be shale?

Kirk Rother: For what?

Bernard McCrossan: What are you going to do there? I guess that you are going to build foundations?

Kirk Rother: The septic systems have to have at least 4 feet of soil.

Bernard McCrossan: What about foundations and getting that material out? Is there going to be blasting?

Mr. Astorino: There would be no blasting on the home sites.

Bernard McCrossan: No blasting on the home sites. I know that you have mentioned that if there was and damage with regard to the drilling or blasting, if there is blasting where it impacts...

Mr. Astorino: Home and video inspections could be done. We just explained that to the adjoiners.

Bernard McCrossan: You mentioned something about strict liability on the blasting and there was some certificate of insurance that would be presented.

Mr. Astorino: They are presented to the Town.

Bernard McCrossan: Do we have to do that?

Mr. Astorino: No. They would have to come to us.

Zen Wojcik: I was involved in a situation like this a number of years ago. It would be the homeowners responsibility to make a claim against the contractor that is blasting.

Bernard McCrossan: Do we have to have our own lawyer?

Zen Wojcik: Before this all happens, there is a survey done to determine what the situation is beforehand. If you have a crack in your foundation now, you could not claim that happened because of the blasting. If anything should happen afterwards, there is a claim made. There are insurance adjusters for that.

Mr. McConnell: My guess would be that you make a claim against your homeowners that would say oh there was blasting. Then, they would go against the blaster.

Bernard McCrossan: Right. It would be something like that. My point is that if the Town is allowing this to happen, why wouldn't the Town go after it?

Mr. Astorino: There are certain protocols.

Mr. McConnell: We are not a party in interest.

Mr. Bollenbach: We are going to make sure that there are procedures put in place to protect the adjoining homeowners.

Bernard McCrossan: Ok. That was my point. Hopefully the procedure is working.

Mr. Astorino: That is what we are here for. We are here to make sure the procedures are in place properly.

Bernard McCrossan: Ok. I had similar concerns that were expressed earlier with regard to the general area. We had purchased this home (10) years ago. The lot sizes were terrific. It is a bit unusual to take an area like that. I understand private property and build it to do what you want. But, how you could cluster a bunch of homes now in what was an area in Warwick that back then (10) years ago was zoned MT which minimum acreage was 4 acres. I am on 3 acres. I guess the zoning was done in the mid 1980's.

Mr. Astorino: I believe that in the 89' Code the acreage in Mountain Zoning was at 4 acres. The bottom line with the clustering, you are still saving 50% of this untouched. The other way, if you put 4 or 5 acre lots in there, it is all being touched. There is a benefit.

Bernard McCrossan: Right. The benefit is the people looking at the vacant land.

Mr. Astorino: I don't think anybody could say that when you moved in all the land around you would remain open forever. It is a trade off.

Bernard McCrossan: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Dayspring-Baum application.

Dick and Maria Nash come before the Planning Board to speak their concerns.

Dick Nash: We own the lake across West Ridge Road that comes down. An awful lot of water does come down that road. The Town comes out about (3) times a year. I realized that he doesn't have to fix it any better than it is. It seems to me that it would be worse. Our main concern is that the water comes down the hill, it then goes across the road into the lake. The water turns brown. We were wondering if it was possible to do the drainage in such a way that it could come west of my driveway. There is a crossing there. I thought maybe you would consider the fact that there is a drain right by his driveway which is the easiest one. Then, there is another one down by my driveway.

Mr. Astorino: Kirk, where do you have that feed in?

Maria Nash: There are (2) drains that come down.

Kirk Rother: We are using the easier one.

Dick Nash: That is the one that runs straight into the lake.

Kirk Rother: Yes.

Mr. Astorino: This is coming out of the pond. Is that correct?

Kirk Rother: When we were doing the drainage analysis for this, we were conscious of the fact that West Ridge Road the drainage that is there and the adjoining property owners, the Compitello's...

Maria Nash: There is a drain pipe between the Compitello's and the driveway. It is terrible.

Dick Nash: That is the easy one.

Maria Nash: It is horrible.

Dick Nash: It comes right over.

Maria Nash: It even comes over the road.

Mr. Astorino: Kirk, what size is that pipe?

Kirk Rother: It is a 15" pipe.

Dick Nash: Is there any way that we could divert it?

Mr. Astorino: If you are flowing water into that pipe, would a bigger pipe be better?

Maria Nash: We want to get it away from the lake.

Mr. Astorino: I don't think you are going to get it away from the lake. The water will flow down the hill regardless.

Kirk Rother: It is possible if the elevations work. I am not opposed to it. The water that goes through your bad pipe now, it will be substantially less.

Mr. Astorino: See if you could work that way.

Dick Nash: Ok. We would appreciate it.

Mr. Astorino: Kirk, check into that.

Kirk Rother: If it works, we will do it.

Maria Nash: It is really bad.

Zen Wojcik: Mr. Chairman, the point you made earlier is relevant. If you have a problem now, the stormwater management plan would not solve the problem.

Mr. Astorino: Exactly.

Zen Wojcik: There is a lake there. It has a quantity of water in it. It is refreshed every time it rains. If Mr. Rother does what you are asking him to do, I think you would be channeling that water away from the lake. In a number of years, you might be miserable because your once beautiful lake is now a mud bath.

Dick Nash: No. It is spring fed.

Maria Nash: When you swim, the cold water hits you right in the back.

Dick Nash: We would appreciate that you consider it.

Mr. Astorino: The applicant and their engineer would have to work on that.

Dick Nash: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Dayspring-Baum application. Let the record show no further public comment. We need a motion to adjourn this public hearing to another date.

**Mr. McConnell makes a motion to adjourn the Dayspring-Baum public hearing to the February 20, 2008 Planning Board meeting.**

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

Mr. Astorino: To all the residence that came out to the Dayspring-Baum public hearing, February 20<sup>th</sup> is the next public hearing. There will be no formal letter mailed to you. This is your notice.

Kirk Rother: Thank you. Have A Nice Holiday!

**Review of Submitted Maps:*****Zircar, Inc. #2***

Application for site plan approval and special use permit for the construction and use of a new 3,260 square-foot addition to the rear of a commercial building (addition partially in the T/Warwick and V/Florida) to support current manufacturing process, situated on tax parcels S 8 B 1 L 5 (Warwick) and S 101 B 1 L 6 (Florida); project located on the northern side of Round Hill Road 240± feet west of the intersection of Round Hill Road and Roe Street, in the OI zone, of the Town of Warwick.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering.  
Thomas Hamling, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Proposed addition will exceed the maximum lot coverage. The addition will also encroach into the rear setback. Board to discuss referral to the ZBA for variances.
4. Clarify the size of the proposed addition within the Town of Warwick.
5. Remove Note 15 – it refers to work done in a previous application.
6. Place the following note on the plan: “A development permit shall be obtained from the Town of Warwick Building Department before the start of construction or any other development within the special flood hazard as established in Section 89-6 of the Town Code.”
7. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 12/17/07:

Zircar, Inc. #2 0 The CB has no comments on this application.

The following comment submitted by the ARB:

Zircar, Inc. #2 – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has provided the Planning Board with a short EAF. The application involves an expansion of an existing non-residential structure of less than 4000 feet. It is a Type 2 Action under the SEQR regulations. SEQR does not need to be invoked.

Mr. Showalter makes a motion for Type 2 Action.

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

**Resolution**

Type 2 Action

**Name of Action:** Zircar Refractory Composites Expansion

**Whereas**, the Town of Warwick Planning Board is in receipt of a Site Plan/Special Use Permit application by Paterco LLC for a ± 2.392 acre parcel of land located at Round Hill Road, Town of Warwick, Orange County, New York, and

**Whereas**, an Environmental Assessment Form (EAF) dated 11/27/07 was submitted at the time of application, and

**Whereas**, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(7) and, therefore, SEQR does not apply, and

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

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

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

Comment #2: Applicant to discuss project.

Karen Emmerich: We are proposing an addition to this building that is partially located in the Village of Florida and Town of Warwick. The portion of the addition that is in the Town of Warwick is roughly 1700 square feet. The addition will be added on to the rear of the building. There are no other changes proposed as far as staffing. We have appeared before the Village of Florida. We are on our way.

Comment #3: Proposed addition will exceed the maximum lot coverage. The addition will also encroach into the rear setback. Board to discuss referral to the ZBA for variances.

Mr. Astorino: Does the Board have any questions? Do we want to give a positive recommendation to the ZBA from this Board?

Mr. Showalter: Send them to the ZBA.

Mr. Astorino: We will take care of that for you.

Comment #4: Clarify the size of the proposed addition within the Town of Warwick.

Karen Emmerich: It is about 1700 square feet.

Mr. Astorino: You will need to show that.

Comment #5: Remove Note 15 – it refers to work done in a previous application.

Karen Emmerich: Will do.

Comment #6: Place the following note on the plan: “A development permit shall be obtained from the Town of Warwick Building Department before the start of construction or any other development within the special flood hazard as established in Section 89-6 of the Town Code.”

Karen Emmerich: Ok.

Comment #7: Pay outstanding review fees.

Karen Emmerich: Ok.

Mr. Astorino: Do any Board members or Professionals have any comments? You are off to the ZBA.

Karen Emmerich: Thank you. Happy Holidays!

**Other Considerations:**

1. **Lands of Greene** – Letter from Kirk Rother, dated 11/14/07 addressed to the Planning Board – in regards to Robert Greene Subdivision requesting a 2<sup>nd</sup> 90-Day Extension on Final Approval of a proposed 2-Lot subdivision SBL # 78-3-42.1. Final Approval was granted on 3/21/07. *The Applicant is still awaiting the legal documentation required to satisfy the conditions of final approval.* The 2<sup>nd</sup> 90-Day Extension becomes effective on 12/21/07.

Mr. McConnell makes a motion on the Lands of Greene application, granting a 2<sup>nd</sup> 90-Day Extension on Final Approval of a proposed 2-Lot subdivision, SBL # 78-3-42.1. Final Approval was granted on 3/21/07. The 2<sup>nd</sup> 90-Day Extension becomes effective on 12/21/07.

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

2. Planning Board to Approve the November 21, 2007 Planning Board minutes.

Mr. McConnell makes a motion to Approve the November 21, 2007 Planning Board minutes.

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

**Correspondences:**

1. **Dayspring-Baum Subdivision** – Letter from Robert Chocallo, dated 12/12/07 addressed to the Planning Board - in regards to the Dayspring-Baum Subdivision.
2. **NYS DEC** – Information on NYS Conservation Easement Tax Credit, dated 12/11/07.

Mr. Astorino: Correspondences 1 and 2 are in our packets.

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

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

Mr. Astorino: Merry Christmas to everyone.

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

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