

TOWN OF WARWICK PLANNING BOARD
October 18, 2023

Members present: Chairman, Benjamin Astorino
Dennis McConnell, Bo Kennedy,
John MacDonald, Rich Purcell, Alt.
Laura Barca, HDR Engineering
Liz Axelson, CPL Planner
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, October 18, 2023 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 SCOPING SESSION

Capozza Four Corners Road NY LLC/Lightstar Solar Project

Application for Site Plan Approval and Special Use Permit for the construction and use of a community scale solar generation facility of 3.2 megawatt (MW AC), situated on tax parcel S 23 B 1 L 17; project located on the southern side of Ridge Road 900 feet east of Four Corners Road (200 Ridge Rd.), in the RU zone, of the Town of Warwick. Previously discussed at the September 20, 2023 Planning Board Meeting. Planning Board adopted Positive Declaration and Scoping of the DEIS at the September 20, 2023 Planning Board Meeting.

Representing the Applicant: Jackie Basile, Developer Manager for Lightstar Energy. Andrew Mavin, AICP for EDR.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Capozza Solar Public Scoping Session.

Mr. Astorino: Thank you.

See attached S. Noel Bartels, the stenographer Planning Board minutes of the Public Scoping Session.

PUBLIC HEARING OF Nicholas Albanese, Trust

Application for Site Plan Approval for the construction and use for the demolition of an existing 2-bedroom dwelling, single-story dwelling, and the construction of a new 2-story, 2-bedroom dwelling located within “A Designated Protection Area” of Greenwood Lake, situated on tax parcel S 74 B 5 L 4; project located on the southern side of Lake Shore Road 40 feet east of Ann Ct. (142 Lake Shore Road), in the SM zone, of the Town of Warwick, County of Orange, State of New York.

Representing the Applicant: Brian Friedler from Friedler Engineering. Nicholas Albanese, Applicant.

Connie Sardo: Mr. Chairman, we received the certified mailings for the Albanese public hearing.

Mr. Astorino: Thank you. Let the record show that Board member Mr. Kennedy had to leave for the rest of the evening.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – no comments received
4. Architectural Review Board – no comments received
5. OC Planning Department – PB secretary determined submittal not required
6. TW Building Department – 09/11/23 illegal demolition of building (07/18/23)
7. Applicant to revise Enviromapper previously submitted to clarify what hatches/ colors represent. Please include legend to make the figure clear.
8. Applicant requesting a waiver because the septic system is located between the utility pole and the house location (that same as it was previously). (Applicant requesting a waiver).
9. The surveyor must sign and seal the plan because metes and bounds are included on the drawings. (Applicant requesting a waiver).
10. Surveyor to certify that iron rods have been set at all property corners. (Applicant requesting a waiver).
11. Payment of all fees.

The following review comment submitted by the Conservation Board:

Nicholas Albanese, Trust – None submitted.

The following review comment submitted by the ARB:

Nicholas Albanese, Trust – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Liz Axelson: The Planning Board adopted a Type 2 Action on September 20, 2023. No other SEQRA review is necessary.

Comment #2: Applicant to discuss project.

Brian Friedler: It was a single-story dwelling with 2 bedrooms. The Applicant was proposing to put a second story on it. During construction a lot of the structural integrity of the house wasn't the way it should have been. They ended up going down to the foundation. Part of the foundation needed to be rebuilt. That is why we are in front of the Planning Board. They want to replace the existing one-story house with a two-story house.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – PB secretary determined submittal not required

Comment #6: TW Building Department – 09/11/23 illegal demolition of building (07/18/23)

Mr. Astorino: That is why you are in front of the Planning Board.

Brian Friedler: Yes.

Comment #7: Applicant to revise Enviromapper previously submitted to clarify what hatches/ colors represent. Please include legend to make the figure clear.

Brian Friedler: Ok.

Comment #8: Applicant requesting a waiver because the septic system is located between the utility pole and the house location (that same as it was previously). (Applicant requesting a waiver).

Mr. Astorino: That is for the underground electric. Is that right?

Brian Friedler: Yes.

Comment #9: The surveyor must sign and seal the plan because metes and bounds are included on the drawings. (Applicant requesting a waiver).

Mr. Astorino: That has not changed. Is that correct?

Brian Friedler: That has not changed.

Comment #10: Surveyor to certify that iron rods have been set at all property corners. (Applicant requesting a waiver).

Brian Friedler: Yes. We request a waiver on that.

Comment #11: Payment of all fees.

Brian Friedler: Ok.

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

John Wohner: My folks are neighbors at 140 Lake Shore Road. We are happy that they are building. It is going to be a benefit to the community and the neighborhood. We like what they are about to do. We have two concerns. The first concern was that the prior structure's roofline was hanging over to our property according to our survey. As long as that would get addressed, we would have no issues with that.

Mr. Astorino: Brian, you would need to make sure that does not happen.

John Wohner: The second concern is the location of the propane tank. It is located currently in between the two structures. We have safety concerns about that.

Laura Barca: Do you mean where it is now?

John Wohner: Is it going to be in the same location between the two buildings?

Nicholas Albanese: We were planning to move it to the front of the house.

John Wohner: Ok.

Mr. Bollenbach: You would need to show on the plans the relocation of the propane tank.

Mr. Astorino: It would be stated on the map.

John Wohner: Ok. Those were our only concerns. Thank you.

Mr. Astorino: Is there anyone else in the audience wishing to address the Albanese Site Plan application? Let the record show no further public comment.

Mr. McConnell makes a motion to close the public hearing.

Seconded by Mr. MacDonald. Motion carried; 4-Ayes and 0-Nays.

Mr. Astorino: We need a motion to waive Comment # 8, 9, and 10.

Mr. McConnell makes a motion to waive Comment #8, of the septic system is located between the utility pole and house location, Comment #9, Surveyor to sign & seal the plans because metes and bounds are included on the drawings and Comment #10, Surveyor to certify that iron rods have been set at all property corners.

Seconded by Mr. MacDonald. Motion carried; 4-Ayes and 0-Nays.

Mr. Bollenbach: Brian, was there an encroachment? What is the story on that?

Brian Friedler: I was not aware of that. He is building on the same footprint.

Mr. Astorino: When you go to rebuild the house, make sure it is not going over the property line. Have the Architect show it on the plans that it would not go over the property line.

Brian Friedler: Ok. We are staying on the same footprint.

Mr. Astorino: You know where the property lines are located?

Brian Friedler: Yes.

Mr. Astorino: Do not cross it.

Brian Friedler: Ok.

Mr. McConnell makes a motion on the Nicholas Albanese Trust Site Plan application, granting conditional Site Plan Approval for the construction and use for the demolition of an existing 2-bedroom dwelling, single-story dwelling, and the construction of a new 2-story, 2-bedroom dwelling located within “A Designated Protection Area” of Greenwood Lake, situated on tax parcel S 74 B 5 L 4; project located on the southern side of Lake Shore Road 40 feet east of Ann Ct. (142 Lake Shore Road), in the SM zone, of the Town of Warwick, County of Orange, State of New York. A SEQRA Type 2 Action was adopted on September 20, 2023. Approval is granted subject to the following conditions:

1. Applicant to revise Enviromapper previously submitted to clarify what hatches/ colors represent. Please include legend to make the figure clear.
2. Applicant requesting a waiver because the septic system is located between the utility pole and the house location (that same as it was previously). (Applicant requesting a waiver). (WAIVED for underground electric)
3. The surveyor must sign and seal the plan because metes and bounds are included on the drawings. (Applicant requesting a waiver). (WAIVED)
4. Surveyor to certify that iron rods have been set at all property corners. (Applicant requesting a waiver). (WAIVED)
5. Relocate propane tanks to front of house.
6. Verify no roofline encroachment.
7. Payment of all fees.

Seconded by Mr. MacDonald. Motion carried; 4-Ayes and 0-Nays.

Brian Friedler: Thank you.

PUBLIC HEARING OF Francesca Gallardo-Allen & John Jordan Allen and Frances Lee Gallardo

Application for Final Approval of a proposed 3-Lot, Lot Line Change, situated on tax parcel S 11 B 1 L 18, 19, & 20; parcels located at Liberty Corners Road 1700 feet west of C.R. 1 (73 Liberty Corners Rd.), in the SL/AI zones, of the Town of Warwick, County of Orange, State of New York.

Representing the Applicant: Dan Getz from Engineering Properties & Surveying.

Connie Sardo: Mr. Chairman, we received the certified mailings for the Gallardo-Allen public hearing.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – no comments received
4. Architectural Review Board – no comments received
5. OC Planning Department–does not need to be submitted per planning board secretary
6. TW Building Department – 04/21/23 no violations
7. ZBA variance for Lot 1 for lot area and front yard (no change as a result of this proposed subdivision). ZBA approved variance, 08/23/23
8. OCDPW approval required, OCDPW approval letter, 08/23/23
9. Planning Board to determine if a site inspection is necessary.
10. Applicant to provide additional notes for Silt Fence Detail on C-301. Please provide notes similar to what is seen in the Blue Book, particularly for sediment removal.
11. Surveyor to certify that iron rods have been set at all property corners.
12. Surveyor to sign and seal drawing.
13. The liber and page for the Agricultural, Aquifer, and Biodiversity Notes must be added to the plan.
14. Payment of all fees.

The following comment submitted by the Conservation Board:

Gallardo-Allen Lot Line Change – None submitted.

The following comment submitted by the ARB:

Gallardo-Allen Lot Line Change – None submitted.

Comment # 1: Planning Board to discuss SEQRA.

Liz Axelson: The Planning Board adopted a Type 2 Action on July 19, 2023. No further SEQRA review is needed. There was a SHPO sign off dated September 26, 2023.

Comment #2: Applicant to discuss project.

Dan Getz: This project is a proposed lot line change. There is an existing house on Lot 1. There are currently 3 existing tax parcels. They would be combined. Then it would be re-subdivided into 2 lots. It is going from 3 lots to 2 lots. Lot 2 would be for a proposed new dwelling. Since we were last before the Planning Board, we have received variances from the ZBA. That was for the setbacks for the existing house and for the lot area of Lot 1. We received OCDPW approval. The driveway comes off a County Road. The County told us to shift the entrance of the driveway for sight distance reasons. That was all approved. The archeological study for Phase I was done on the property. There were no archeological resources found. We have mailed out service capacity letters. We had sent that out over 30 days ago. We had no response from them. At the Workshop, we had discussions the pins. We are asking for a waiver for the requirement to set pins at all property corners. Some of the property corners are not accessible due to existing ditches. As requested at the Workshop, you wanted plans that showed which property corners have pins that were found by the surveyor. In the dark blue area on the plan is where the surveyor had found an existing pin that would stay. The red areas are an existing pin that needs to be removed as part of the lot line change. The green would be new pins that we are proposing to set. We would request a waiver on the setting of the iron pins for all the missing corners as most of those missing corners are the centerline ditches.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department–does not need to be submitted per planning board secretary

Comment #6: TW Building Department – 04/21/23 no violations

Comment #7: ZBA variance for Lot 1 for lot area and front yard (no change as a result of this proposed subdivision). ZBA approved variance, 08/23/23

Mr. Astorino: That was granted by ty the ZBA. This application is for a proposed lot line change. Is that correct?

Dan Getz: Yes.

Comment #8: OCDPW approval required, OCDPW approval letter, 08/23/23

Comment #9: Planning Board to determine if a site inspection is necessary.

Mr. Astorino: We don't need to do a site visit.

Comment #10: Applicant to provide additional notes for Silt Fence Detail on C-301. Please provide notes similar to what is seen in the Blue Book, particularly for sediment removal.

Dan Getz: Yes. Will do.

Comment #11: Surveyor to certify that iron rods have been set at all property corners.

Mr. Astorino: The Board is ok with entertaining a waiver on the certification of iron rods.
Comment #12: Surveyor to sign and seal drawing.

Dan Getz: Yes.

Comment #13: The liber and page for the Agricultural, Aquifer, and Biodiversity Notes must be added to the plan.

Dan Getz: Will do.

Comment #14: Payment of all fees.

Dan Getz: Yes.

Mr. Astorino: Do any Board members or Professionals have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Gallardo & Allen lot line change application, please rise and state your name for the record. Let the record show no public comment.

Mr. McConnell makes a motion to close the public hearing.

Seconded by Mr. MacDonald. Motion carried; 4-Ayes and 0-Nays.

Mr. McConnell makes a motion on Comment #11 to waive the certification of iron rods as described in the drawing that was presented to us this evening.

Seconded by Mr. MacDonald. Motion carried; 4-Ayes and 0-Nays.

Mr. Purcell makes a motion on the Francesca Gallardo-Allen & John Jordan Allen and Frances Lee Gallardo application, granting conditional final approval of a proposed 3-Lot, Lot Line Change, situated on tax parcels S 11 B 1 L 18, 29, & 20; parcels located at Liberty Corner Road 1700 feet west of C.R. 1 (73 Liberty Corners Rd.), in the SL/AI zones, of the Town of Warwick, County of Orange, State of New York. A SEQRA Type 2 Action was adopted on July 19, 2023. Approval is granted subject to the following conditions:

1. ZBA variance for Lot 1 for lot area and front yard (no change as a result of this proposed subdivision). ZBA approved variance, 09/25/23
2. OCDPW approval required, OCDPW approval letter, 08/23/23
3. Applicant to provide additional notes for Silt Fence Detail on C-301. Please provide notes similar to what is seen in the Blue Book, particularly for sediment removal.
4. Surveyor to certify that iron rods have been set at all property corners. (WAIVED As per survey from Engineering Properties & Surveying, dated 10/13/23.
5. Surveyor to sign and seal drawing.
6. The liber and page for the Agricultural, Aquifer, and Biodiversity Notes must be added to the plan.
7. Payment of all fees.

Seconded by Mr. McConnell. Motion carried; 4-Ayes and 0-Nays.

Review of Submitted Maps:***M&T/Ted Edwards Subdivision***

Application for Sketch Plat Review of a proposed 4-Lot (MAJOR) subdivision, situated on tax parcels S 26 B 1 L 118 & 117; parcels located on the eastern side of Amity Road 350 feet south of Feagles Road p/o the Ted Edwards old final subdivision finalized on 7/30/10 (77 Amity Rd. and 88 Newport Bridge Rd), in the RU zone, of the Town of Warwick. Previously discussed at the Planning Board Meeting of 6/7/23.

Representing the Applicant: Brian Friedler, Engineer. Ted Edwards, Applicant.

The follow review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – no comments received
4. Architectural Review Board – no comments received
5. OC Planning Department – 06/13/22 advisory comments for removing property from the Orange County Agricultural District #2 if farming is no longer proposed on a portion of the lot, Indiana bats habitat, and steep slope construction
6. TW Building Department – 05/31/22 barn with living area for caretaker needs to provide a yearly farm worker affidavit to the Building Department.
7. ZBA: Town Law §280(a) for access for the 3-lot subdivision by a shared driveway; §164.41C(4)(f) allowing a 6-ft fence in the front yard setback whereas a 4-ft fence is allowed. Fence must be earth-tone color. (ZBA variance granted 10/24/22).
8. Applicant to clarify that the property is in compliance with §153-1 (not more than one abandoned or unlicensed non-farm vehicle can be on property).
9. 911 addresses must be obtained from the Building Department and then shown on the plan.
10. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” (Sheet C-1, Note 10)
11. Surveyor to certify that iron rods have been set at all property corners.
12. The liber and page for the Agricultural and Biodiversity notes, as well as the Shared Driveway Agreement must be added to the plan.
13. A cost estimate and bond for the shared driveway that must be paved in its entirety must be submitted.
14. The shared driveway bond, landscape bond, and site inspection fees must be submitted prior to the maps being signed.
15. Payment in lieu of parkland for three lots per Town of Warwick Town Code §75-3.A.(2)(a)[3].
16. Payment of all fees.

The following comment submitted by the Conservation Board:

M&T/Ted Edwards Subdivision – None submitted.

The following comment submitted by the ARB:

M&T/Ted Edwards Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Liz Axelson: The Planning Board adopted a Resolution to establish Lead Agency on 6/15/22 indicating it is an Unlisted Action. I have a number of short EAF comments and planning comments that should be easy to address. (Stated below are CPL Memo/Comments, dated 10/18/23). I am recommending that the Planning Board take no further action until we have a more complete EAF and plans.

MEMORANDUM

Date: For October 18, 2023 (Revised)

To: Chairman Ben Astorino and Town of Warwick Planning Board

From: Liz Axelson, AICP, Senior Planner
Meagen Stone, Planner

RE: M&T Edwards Subdivision
77 Amity Road
Warwick, NY 10990
Section 26, Block 1, Lots 118
Project: R23.00030.08

We have reviewed the materials listed at the end of this memorandum according to pertinent requirements and standards of the Code of the Town of Warwick, primarily Chapter 164, Zoning; SEQR forms and online mapping resources. Based on our review we offer the following comments:

General Comments:

1. The proposed action is the subdivision of a 22.9-acre site into 4 lots with access via a fifty-foot (50') wide access easement over adjacent lots that have frontage on Newport Bridge Road. The Applicant previously obtained variance from section 280-a of the Town Law of the State of New York by decision by Town of Warwick Zoning Board of Appeals on October 24, 2022. The proposal would result in:
 - a. a lot for an existing home on one of the resulting lots; and
 - b. 3 lots for proposed residential development.
2. This property is located within the following Town of Warwick Zoning districts and Overlay Zoning Districts. When more detailed plans are provided, additional review pertinent to natural resources and environmental effects of the project will be considered as per the standards in the following zoning and overlay districts as set forth in their corresponding sections:
 - a. Rural (RU) district, zoning sections 164-30 and 164-31, B.;
 - b. Agricultural Protection Overlay (AP-O) district, section 164-30 and 164-31, M.; and
 - c. Biodiversity Conservation Overlay (BC-O) on the northeastern portion of the site, sections 164-30 and 164-31, P., 164-34 and 164-47.9.
3. We defer to the Planning Board's Engineer regarding code review.
4. Please refer to the comments below. Although the submittal provides fairly detailed information about the proposed action, key items should be provided for SEQR

review, see comments below. Accordingly, the application is incomplete. Therefore, no Planning Board action is recommended at this time. A submittal should be prepared to address the comments herein. I may have additional comments when more detailed information is provided.

SEQR Comments:

5. At the Planning Board meeting of June 15 2022, the Planning Board adopted a resolution establishing lead agency in identifying the proposed project as an Unlisted action.
6. A submittal should be prepared to provide more detailed information about the proposed action by providing a more detailed site plan set.
7. Please refer to the Short Environmental Assessment Form (Short EAF) and Plan Comments below that relate to the identification of the site's natural resources, areas of potential environmental impact and corresponding recommended development practices and mitigation.

Short Environmental Assessment Form Comments:

8. The submittal received did **not** include a revised Short EAF to address prior comments. Please provide in the next submittal.
9. Prior comments noted the response to Short EAF question 12. b., indicated sensitivity for archaeological sites. Consultation with the New York State Office of Parks Recreation and Historic Preservation (NYS OPRHP or SHPO) was recommended. The Applicant's representatives had made an initial submittal via SHPO's Cultural Resource Information System (CRIS) some time ago, and consequently, Phase 1A and Phase 1 B cultural (archaeological/historical) resource investigations reports were prepared, dated August 2023, and submitted via SHPO's CRIS. In response to a 10/9/23 call with Brian Friedler, PE, a pdf of the report was submitted to the Planning Board and my office by email. The submittal also includes a SHPO letter of 9/12/23 indicating: "that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project." This comment has been addressed.
10. In response to prior comments, about Short EAF question 13. a., the plan set now shows wetlands labeled "Wetlands as flagged by ERS Consultants (08/21/23)". However, the wetland area should be labeled to indicate whether it is a NYSDEC wetland or US ACOE, or both.
11. As per prior comments, provide a copy of the wetland delineation report that resulted in the wetland area shown on the plan set.
12. As per prior comments, in response to question 14, it appears that "Forest" and "Wetland" should be checked as habitat types near the site, given apparent wooded and wetland areas on the site.
13. In response to question 15, regarding Threatened or Endangered species, the submittal included a habitat assessment for the site, including Indiana Bat and Bog Turtle. Regarding the Bog Turtle the NYSDEC requires a buffer of 300 feet from Bog turtle habitat, noting there will be no disturbance within 300 feet of the wetland boundaries. See related plan comments below.
14. As per prior comments, provide narrative about areas of the site intended for preservation, generally and in related to the species noted above; and the specific preservation and/or mitigation measures proposed.

Plan Comments:

The plan comments below focus on creating plans that identify the environmental and other resources of the site and surroundings, clearly depict the proposed action and demonstrate the extent of impacts and corresponding mitigation.

15. As per prior comments, it is recommended that an existing conditions plan be provided as part of the plan set showing vegetated and wooded areas, including existing large trees in open areas, meadow or lawn areas, rocky areas or outcrops, etc.
16. As per prior comments, the proposed development plan sheets should show all of these existing natural features; and whether and where such areas would be disturbed, removed or retained and preserved.
17. As per prior comments, it is unclear why there are 3 small, disturbed areas (surrounded by the legend symbol for "Approx. Limit of Disturbance") in the eastern corner of the site remote from any apparent residential lot improvements.
18. The plans were revised so that the hash-marked area in the western-northwestern area of the site is now labeled as "Wetlands as flagged by ERS Consultants (08/21/23)". Address the following comments
 - a. Revise the labelling to indicate whether what is shown is a federal and/or state wetland.
 - b. Revise the plans to show the NYSDEC required buffer of 300 feet from potential Bog Turtle habitat, e.g., a buffer around the wetland.
 - c. Show and label any other required wetland buffer area (NYSDEC 100' buffer).
19. As per prior comments, there is no label or legend item corresponding to the dashed line running to and from the western-northwestern area of the site to indicate a possible stream and/or tributaries. Add labels and legend items to the plan set to show, label and define these natural features.
20. Later in the review process, revise the plan set to finalize the Town of Warwick Standard Map Notes (fill in the blanks), already shown, corresponding to the Biodiversity Conservation Notes, as site is in the BC-O (Biodiversity Conservation Overlay) Zoning District. Pending the results of a habitat assessment report, the notes may be revised.
21. As requested, the Town of Warwick Standard Map notes were added to the plan for the Agricultural Protection Overlay (AP-O) district. Revise the AP-O notation as follows:
 - a. Revise the AP-O introductory paragraph to conform to the introductory paragraph of the standard notation; and
 - b. Revise subparagraph d. to refer to "farming" not "framing".
22. As per prior comments, delineate the extent of the BC-O and the AP-O districts on all pertinent sheets of the plan set, existing conditions and proposed development, where pertinent.
23. Upon submittal of revised plans and other application materials and documents, we may have additional comments.
24. **Please provide a response letter to the comments herein.**

If you have any questions, please do not hesitate to contact me at 845-686-2309, or e-mail at eaxelson@cplteam.com.

Materials Reviewed:

- Cover letter and responses to prior engineering comments by Brian Friedler, PE, Friedler Engineering, PLLC, dated September 25, 2023, with attached copy of:
 - Responses to prior Engineering comments of 6/7/23;
 - Town of Warwick Planning Board 911 addressing procedure form with attached map;
 - ERS Consultants Inc Threatened and Endangered Species Investigation for the Edwards Subdivision by letter dated August 25 2023;
 - New York State Office of Parks Recreation and Historic Preservation (NYS OPRHP or SHPO) letter of September 12, 2023 regarding no additional investigation and no impact;
- Plan set entitled Subdivision Plan M&T Subdivision, prepared by Brian Friedler, PE, Friedler Engineering, PLLC, dated May 16, 2023, revised 9/25/23, including the following plan sheets:
 - Subdivision Plan;

- o Subdivision Plat;
- o Grading & Utility Plan;
- o Details – 1; and
- o Details – 2.

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Materials Previously Reviewed:

- Cover letter and responses to prior comments by Brian Friedler, PE, Friedler Engineering, PLLC, dated May 16, 2023, with attached copy of:
 - o prior Engineering comments of 6/15/22;
 - o ZBA decision regarding 280-a regarding access of 10/24/22, including SEQR documents;
- Short EAF prepared by Brian Friedler, PE, Friedler Engineering, PLLC, date May 23, 2023, with attached location map;
- Plan set entitled Subdivision Plan M&T Subdivision, prepared by Brian Friedler, PE, Friedler Engineering, PLLC, dated May 16, 2023, including the following plan sheets:
 - o Subdivision Plan;
 - o Subdivision Plat;
 - o Grading & Utility Plan;
 - o Details – 1; and
 - o Details – 2.

Comment #2: Applicant to discuss project.

Brian Friedler: The application is for a proposed 4-Lot subdivision. We propose to have 3 new homes coming off Newport Bridge Road using a common driveway. There will be a 50-foot Right-Of-Way through the neighbor's yard who is located on Newport Bridge Road. We had an Archeological study done. Everything was sent off to SHPO. We received a letter stating that there were no impacts. We are here in front of the Board hoping to be set for a public hearing.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 06/13/22 advisory comments for removing property from the Orange County Agricultural District #2 if farming is no longer proposed on a portion of the lot, Indiana bats habitat, and steep slope construction

Comment #6: TW Building Department – 05/31/22 barn with living area for caretaker needs to provide a yearly farm worker affidavit to the Building Department.

Ted Edwards: Yes. I have that.

Comment #7: ZBA: Town Law §280(a) for access for the 3-lot subdivision by a shared driveway; §164.41C(4)(f) allowing a 6-ft fence in the front yard setback whereas a 4-ft fence is allowed. Fence must be earth-tone color. (ZBA variance granted 10/24/22).

Brian Friedler: Yes.

Comment #8: Applicant to clarify that the property is in compliance with §153-1 (not more than one abandoned or unlicensed non-farm vehicle can be on property).

Brian Friedler: That has been taken care of.

Ted Edwards: They are gone.

Comment #9: 911 addresses must be obtained from the Building Department and then shown on the plan.

Mr. Astorino: We discussed that at the Work Session. I know there was some issue with that. Have you got in touch with the Building Department to see what is going on?

Brian Friedler: The addressing goes from 84 to 88 and to 92. There are only two addresses that we could get to keep it in sequence. I sent an email out if we would be able to label the common driveway as a road.

Mr. Astorino: You are looking into that. Is that correct?

Brian Friedler: Yes.

Comment #10: Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” (Sheet C-1, Note 10)

Brian Friedler: Yes.

Comment #11: Surveyor to certify that iron rods have been set at all property corners.

Brian Friedler: Ok.

Comment #12: The liber and page for the Agricultural and Biodiversity notes, as well as the Shared Driveway Agreement must be added to the plan.

Brian Friedler: Yes.

Mr. McConnell: How could it be a Shared Driveway Agreement if they are going to convert it into a private road?

Mr. Astorino: Is it going to be a private road or common driveway?

Brian Friedler: It is going to be a common driveway.

Mr. Astorino: They would need to get 911 addresses off a common driveway.

Laura Barca: There would still be a Shared Maintenance Agreement.

Mr. McConnell: Yes. I am just wondering what the name of that agreement would be.

Comment #13: A cost estimate and bond for the shared driveway that must be paved in its entirety must be submitted.

Brian Friedler: Ok.

Comment #14: The shared driveway bond, landscape bond, and site inspection fees must be submitted prior to the maps being signed.

Brian Friedler: We don't plan on doing any landscaping at this point.

Mr. Astorino: Ok. It is there as a place keeper.

Laura Barca: There is a fence proposed.

Ted Edwards: Do you consider a fence as landscaping?

Mr. Bollenbach: Yes. It is considered as landscaping. You could either install it or bond it.

Laura Barca: It would be more of a performance bond than a landscape bond.

Comment #15: Payment in lieu of parkland for three lots per Town of Warwick Town Code §75-3.A.(2)(a)[3].

Brian Friedler: Ok.

Comment #16: Payment of all fees.

Brian Friedler: Ok.

Brian Friedler: We request to be set for a public hearing.

Mr. McConnell makes a motion to set the M&T/Ted Edwards Subdivision application for a Preliminary Public Hearing at the next available agenda.

Seconded by rm. MacDonald. Motion carried; 4-Ayes and 0-Nays.

Brian Friedler: Thank you.

Ted Edwards: Thank you.

Other Considerations:

1. **Old Forge Road LLC** – Planning Board to discuss amending Resolution for Intent to Be Lead Agency.

Mr. McConnell makes a motion on the Amended Intent To Be Lead Agency.

Seconded by Mr. MacDonald. The following Resolution was carried 4-Ayes and 0-Nays.

617.6

State Environmental Quality Review (SEQR)**Amended Resolution Establishing Intent to Be Lead Agency**

Unlisted Action Undergoing Coordinated Review

Name of Action: Old Forge School Site Plan and Special Use Permit Application

Whereas, the Town of Warwick Planning Board is in receipt of an application for review and approval of a Site Plan and Special Use Permit (SUP) by Old Forge Road, LLC for the use and redevelopment of the existing 7.01-acre site, structures and improvements on a site with 2 tax parcels: Section 83, Block 1, Lots 2 & 5.1, approximately 5.4± and 1.5± acres, respectively, located at 61 Old Forge Road, Town of Warwick, Orange County, New York; and

Whereas, the Town of Warwick Planning Board had previously referred this application to the Town of Warwick Zoning Board of Appeals for an area variance; and

Whereas, an area variance for a minor expansion of existing nonconforming lot coverage was denied by the Town of Warwick Zoning Board of Appeals on August 28, 2023; and accordingly, the site's impervious coverage will not be increased by the proposed Site Plan and SUP; and

Whereas, the Town of Warwick Planning Board has reviewed the submittal including drawings entitled Old Forge School, prepared by David Getz, PE; and Keith Woodruff, CPESC, CPSWQ, Engineering & Surveying Properties, showing a set of detailed site plans proposing the redevelopment of existing structures, accessways and parking areas for use as a private school; and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and .5, the Planning Board has determined that the proposed project is an Unlisted Action under SEQR, yet further information is needed for continued review of the application;

Whereas, the Town of Warwick Planning Board had previously declared that the proposed project is an Unlisted Action under SEQR and declared its intent to serve as lead agency at its regular meeting on October 4, 2023; and

Whereas, the Town of Warwick Planning Board at its October 4, 2023 meeting authorized and subsequently circulated a resolution and project information to the following Involved or Interested Agencies and other agencies to inform them of the SEQR review of the proposed action:

- New York State Education Department;
- New York State Department of Environmental Conservation;
- Orange County Department of Planning;
- Orange County Department of Health;
- Town of Warwick Zoning Board of Appeals; and
- Tuxedo Union Free School District; and

Whereas, the Planning Board recently identified the following additional Involved or Interested agencies:

- New York State Office of Parks Recreation and Historic Preservation (NYS OPRHP);
- Palisades Interstate Park Commission (PIPC); and
- Town of Tuxedo;

Now Therefore Be It Resolved, that the Town of Warwick Planning Board hereby reaffirms its declaration that the proposed project is an Unlisted Action under SEQR; and

Be It Further Resolved, that the Town of Warwick Planning Board hereby reaffirms its declaration that it intends to serve as Lead Agency in the review of the application under SEQR;

Be It Further Resolved, that the Town of Warwick Planning Board hereby authorizes the circulation of this resolution and project information to the following additional Involved or Interested agencies:

- New York State Office of Parks Recreation and Historic Preservation (NYS OPRHP);
- Palisades Interstate Park Commission (PIPC); and

- Town of Tuxedo.

On a motion by Dennis McConnell, and seconded by John MacDonald, and a vote of

4 for, and 0 against, and 1 absent, this resolution was adopted on October 18, 2023.

2. Referral to the Planning Board by the Town Board regarding an amendment to §164-60, Senior Housing zone.

Mr. Astorino: This was brought up to the Town Board by a developer to use the dropdown zone. John, could you elaborate on that?

Mr. Bollenbach: There has been a proposal for some revisions to the senior housing (SH-F) criteria. The Town has had it in existence for approximately 23 to 24 years. There really hasn't been any takers on it. With the political climate in Albany there is a push for supplemental housing. The Town Board thought it might be appropriate to entertain this proposal at this time. What it is doing is establishing a density for that dropdown senior housing floating zone which would be similar to surrounding zoning districts joining that particular parcel. This is not the only item. The Town Board is also doing some housekeeping on some other items within the Zoning Code itself. There have been several typos that have been discovered. There were also different special conditions that are irrelevant or not properly included. That would all be itemized and given to the Board for review.

Mr. McConnell: John, is this proposed action by the Town Board changing the zoning of the particular parcel that was indicated in the correspondence with the Board members from Light Industrial to Senior Housing? Is it a floating zone itself?

Mr. Bollenbach: It is still in the underlining zoning which is the OI zone. That whole strip of property is located in the OI zone. It is just the Senior Housing "Floating" zone could be applied throughout the entirety of the Town. Based upon different criteria, they felt it might be well suited to this particular area.

Mr. McConnell: Since this zoning plan was adopted, there has been no OI application on this property.

Mr. Bollenbach: No. Nor has there been any senior housing application before the Board.

Mr. Astorino: It makes sense to have it over there.

Mr. McConnell: The only concern that I have is the amount of wetlands on this parcel.

Mr. Astorino: They would have to work through that. That would be on them.

Mr. McConnell: I think that some of it is the result of beavers.

Mr. Astorino: Yes. John, would you prepare a recommendation to the Town Board?

Mr. Bollenbach: Yes.

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

Mr. McConnell: I think that it is a good idea.

Mr. Astorino: The Board is in a consensus. John, please get us that draft recommendation to the Town Board as soon as possible.

Mr. Bollenbach: Yes. I will prepare a draft recommendation to the Town Board.

Mr. Astorino: Thank you.

3. Planning Board Minutes of 10/4/23 for PB approval

Mr. McConnell makes a motion to approve the Planning Board Minutes of 10/4/23.

Seconded by Mr. Purcell. Motion carried 4-Ayes and 0-Nays.

4. **Wheeler Road Estates** – Letter from Nick Rugnetta, P&P Engineering addressed to the Planning Board dated 10/11/23 in regards to the Wheeler Road Estates Subdivision – requesting 36th 6-Month Extension on Preliminary Approval of a proposed 31-Lot subdivision + 2-Affordable Housing Lots and 1-HOA Lot which included open space, stormwater management facilities and private roads, situated on tax parcel SBL #8-2-44.223; parcel located along the northerly side of Wheeler Road (C.R. 41) at the intersection with Dussenbury Drive, in the SL zone, of the Town of Warwick. Preliminary Approval was granted on 11/2/05. *The Applicant has stated that their office along with Steve Esposito and John Cappello, Esq., have been addressing the final comments received by the Town's Consultants and are also working with the Town Board to address the final items required for approval.* The 35th 6-Month Extension on Preliminary Approval was granted on 6/7/23 became effective on 5/2/23. The 36th 6-Month Extension on Preliminary Approval becomes effective on 11/2/23.

Mr. McConnell: Is there some explanation given that this has gone from May of 2023 to November of 2023?

Mr. Astorino: I believe that they only have 2 more months to go.

Mr. Bollenbach: The original owner Al Wolpert had passed away.

Mr. McConnell: Ok. So, this would come back to us next month.

Mr. Bollenbach: The Applicant has just submitted some additional engineering for the stormwater management which is the main issue because there is a drainage district that the Planning Board would have to review. The Town Board would have to accept the drainage district and put it into place before they could get their final approval to get the maps filed before the first of the year or it goes bye-bye. They don't seem to have been too responsive. It is under the crunch. The other Planning Board application called Warwick Isle located out at Merritts Island Road is in a similar position. But they have made a submission.

Mr. Astorino: We are already in the middle to October. Is there anyway that this would be done before the first of the year? It sounds like they are working on a razor thin edge here.

Mr. McConnell: It has been for some time. They have been the beneficiary of extensions.

Mr. Astorino: I am trying to think realistically of where we are.

Mr. McConnell: It is not our concern.

Mr. Bollenbach: Warwick Isle out on Merritts Island Road has recorded all of their declarations. They have been progressing and getting things together. They have been trying to finalize their maps. Wheeler Road Estates application is a little further behind the eight ball.

Mr. Astorino: They would have to put some time on it. We only have a few meetings left until the end of the year.

Mr. McConnell makes a motion on the Wheeler Road Estates application, granting a 36th 6-Month Extensions on Preliminary Approval of a proposed 31-Lot Cluster subdivision + 2-Affordable Homes and 1-HOA Lot which included open space, stormwater management facilities and private road, SBL # 8-2-44.223. Preliminary Approval was granted on, 11/2/05.

The 36th 6-Month Extension on Preliminary Approval becomes effective on, 11/2/23.

Seconded by Mr. MacDonald. Motion carried; 4-Ayes and 0-Nays.

Correspondences:

1. Email Correspondence from Drew Bagin, dated 10/9/23 addressed to the Planning Department regarding Capozza Four Corner Solar Project. (Emailed to PB & Professionals on 10/10/23).
2. Numerous Email Correspondences from Michael & Linda Laplace, dated 10/16/23 & 10/17/23 addressed to the Planning Board in regards to the Capozza Four Corners Solar Project (Emailed to PB & Professionals on 10/16/23 & 10/17/23)

Mr. Astorino: We have those correspondences in our packets which would be part of the scoping document.

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. McConnell makes a motion to adjourn the October 18, 2023 Planning Board Meeting.

Seconded by Mr. MacDonald. Motion carried; 4-Ayes and 0-Nays.