

TOWN OF WARWICK PLANNING BOARD

March 28, 2018

Members present: Chairman, Benjamin Astorino  
Roger Showalter, Vice-Chairman  
Dennis McConnell, Christine Little,  
John MacDonald, Alt.  
Laura Barca, HDR Engineering  
J. Theodore Fink, Greenplan  
John Bollenbach, Planning Board Attorney  
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, March 28, 2018 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

**Review of Submitted Maps:**

***Wendt-Cassanite Lot Line Change***

Application for Sketch Plat Review & Final Approval of a proposed Lot Line Change, situated on tax parcels S 55 B 1 L 41.21 & 45; parcels located on the northern side of Old Mt. Peter Road 260+/- north of NYS Route 17A, in the RU zone, of the Town of Warwick.

Representing the applicant: Dave Getz from Lehman & Getz Engineering

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 – 3/6/18 no comments
6. TW Building Department – 03/01/18: Tax Lot 55-1-41.21: two open permits (20122 for rear deck and 19111 for detached garage).
7. ZBA – not necessary because lot areas are remaining the same (PB attorney)
8. The 911 addresses must be shown on the plan.
9. The units in the Zoning Requirements table should be consistent (e.g., lot area should be in sf or acre).
10. In the Short EAF, Items 5b and 15 should be answered.
11. The beneficiary(ies) of the Right-of-Way shown must be called out on the plan.
12. Applicant to clarify if there is a shared driveway agreement for the Right-of-Way.
13. The metes and bounds that cannot be located immediately adjacent to the line it is describing must have an arrow showing the line it is describing.
14. The metes and bounds for all lot lines, including the proposed lot lines, must be shown on the drawing.

15. 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.”
16. Surveyor to certify that iron rods have been set at all property corners.
17. The liber and page for the deed referencing the changes made to the lot lines.
18. The liber and page for the Ridgeline Overlay Notes must be added to the plan.
19. Payment of all fees.

The following comment submitted by the Conservation Board:

Wendt-Cassanite Lot Line Change – None submitted.

The following comment submitted by the ARB:

Wendt-Cassanite Lot Line Change – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: We have received a short EAF. This project is a Type 2 Action. There is no construction proposed. It is a simple lot line change. No SEQRA review is necessary.

Comment #2: Applicant to discuss project.

Dave Getz: The Cassanite’s own Lot #45 which has access from Cozy Lane. It has a shared/common driveway from Route 17A. The Cassanite’s want to sell their property. They realized recently that a garage that they built in the past extends about 11 feet over the current property line. To clean up the situation and the sale, they are proposing a lot line change for their neighbor Mr. Wendt to the rear. They are unusual shaped properties. The proposal involves the exchange. On Sheet #2 of the plans, the diagram shows two small areas that are highlighted in red. By swapping equal areas of approximately 925 s.f. that existing garage would then be cleanly on the Cassanite property. The 2 owners of the property are in an agreement of doing that. There is no disturbance or construction proposed.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 3/6/18 no comments

Comment #6: TW Building Department – 03/01/18: Tax Lot 55-1-41.21: two open permits (20122 for rear deck and 19111 for detached garage).

Connie Sardo: That is in the process of being worked on through the Building Department.

Mr. Astorino: Thank you.

Comment #7: ZBA – not necessary because lot areas are remaining the same (PB attorney)

Comment #8: The 911 addresses must be shown on the plan.

Dave Getz: We will provide that.

Comment #9: The units in the Zoning Requirements table should be consistent (e.g., lot area should be in sf or acre).

Dave Getz: Yes. We will update that.

Comment #10: In the Short EAF, Items 5b and 15 should be answered.

Dave Getz: Yes.

Comment #11: The beneficiary(ies) of the Right-of-Way shown must be called out on the plan.

Dave Getz: We will clarify that.

Comment #12: Applicant to clarify if there is a shared driveway agreement for the Right-of-Way.

Dave Getz: Mr. Cassanite doesn't know of any written agreement.

Mr. Astorino: Is it between the 2 parties?

Dave Getz: No. There are more than 2 parties. I believe there are between 3 or 4 of them.

Mr. Bollenbach: Let's try to get them all together.

Mr. Astorino: Maybe, you could reach out to them. I know that this is a simple lot line change.

Mr. Bollenbach: Let's take care of it now.

Mr. Astorino: I agree with that. Hopefully this doesn't hold it up. This is a pretty simple item. Maybe, Frank could reach out to each of the neighbors. It should be a quick thing.

Dave Getz: Yes. He had said that it has always worked out well. He said that each neighbor plows a certain amount. There has never been any squabbles over this.

Mr. Bollenbach: Whatever understanding that they have, let them get that in writing.

Mr. Astorino: We will add to Comment #12, to the Planning Board Attorney's review.

Dave Getz: Ok.

Mr. McConnell: Only a small portion of the driveway would be affected by this. It would go from being on the neighbor's property to being on the Applicant's property. Is that correct?

Dave Getz: Yes.

Mr. McConnell: It actually improves by a very small amount his ownership of his driveway.

Dave Getz: It just nicks the driveway a little bit. Yes.

Mr. McConnell: It is less of a concern.

Mr. Astorino: I think John's point is that they are now before us. Let's get something in writing. Because if the property ever sells, it is handled.

Mr. Showalter: This way there would be no disputes in the future.

Mr. McConnell: I have no issue with that. I would not hold up this application to get it. Reason #1, this has been going on for so long. Reason #2, they are actually improving the situation. I can't see making them wait longer because of some third party that is not cooperating.

Mr. Bollenbach: They don't have to wait any longer. It is a condition of the approval. If the Planning Board grants the approval tonight, this would be one of the conditions of the approval. They would provide that and be done with it.

Mr. McConnell: It is making them wait longer.

Mr. Bollenbach: We are filing a new subdivision map. The new subdivision map would show a Right-of-Way on there. What is the understanding? Let's get it reduced to writing. It would be the Planning Board's pleasure.

Mr. Astorino: Let's move on. I agree with your point. I was the first one to say that I would hate to hold it up for this. But, in the other way, it makes sense that if you talk to the other neighbors and they all get along, it should be an easy thing to do. The Planning Board needs to make a decision if they want it to be part of the approval or not. Dave, you need to have the applicants reach out to the neighbors and get something in writing to John for his review.

Mr. McConnell: Explain to them the advantages of them having it in writing.

Mr. Astorino: I agree.

Ms. Little: I think our standard has always been if there is a shared driveway, we need that agreement. It is for the future. It is great that they all get along now. That could change in the future.

Mr. Astorino: It is not even for these people. It is for the next people.

Ms. Little: Right.

Mr. Showalter: Once it is done, it is done. Then no one would have to worry about it. It is not an argument.

Ms. Little: Right.

Mr. Astorino: We will add to that comment "to Planning Board Attorney's specifications".

Comment #13: The metes and bounds that cannot be located immediately adjacent to the line it is describing must have an arrow showing the line it is describing.

Dave Getz: Will Fix.

Comment #14: The metes and bounds for all lot lines, including the proposed lot lines, must be shown on the drawing.

Dave Getz: Bob Schmick will provide that.

Comment #15: 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.”

Dave Getz: Ok.

Comment #16: Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: No problem.

Comment #17: The liber and page for the deed referencing the changes made to the lot lines.

Dave Getz: Ok.

Comment #18: The liber and page for the Ridgeline Overlay Notes must be added to the plan.

Dave Getz: Ok.

Comment #19: Payment of all fees.

Dave Getz: Ok.

Mr. Bollenbach: Just for the Board’s information, we are requiring a declaration for the Ridgeline Notes, so the driveway easement could be incorporated.

Mr. Astorino: Let’s make a note that it is required. Do any Board members have any comments?

Mr. McConnell: John, in regards to Comment #15 in this instance where they are going to be using a driveway that is already in existence and has always been in existence, would it be appropriate to say “no construction or proposed use shall begin”? It is an ongoing use. It is not beginning. Should that comment be modified?

Mr. Bollenbach: That comment can be stricken. We can strike Comment #15.

Mr. McConnell: Ok.

Mr. Astorino: That is just a standard note that we have. Do any other Board members have any comments? We have a Resolution for a Type 2 Action.

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

Seconded by Ms. Little. The following Resolution was carried 5-Ayes.

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

**Name of Action:** Wendt-Cassanite Re-Subdivision (Lot Line Change)

**Whereas**, the Town of Warwick Planning Board is in receipt of a Subdivision application by Ryan Wendt and Donna Cassanite for a ± 2.106 acre parcel of land located at New York State Route 17A and Old Mount Peter Road, Town of Warwick, Orange County, New York, and

**Whereas**, an Environmental Assessment Form (EAF) dated 1-31-18 was submitted at the time of application, and

**Whereas**, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(9) and, therefore, SEQR does not apply, and

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

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

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

Mr. Astorino: Since there is no construction proposed and it is a simple lot line change, does the Applicant wish to waive the public hearing?

Dave Getz: Yes. We request to waive the public hearing.

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

Seconded by Ms. Little. Motion carried; 5-Ayes.

Ms. Little makes a motion on the Wendt-Cassanite Lot Line Change application, granting Final Approval of a proposed Lot Line Change, situated on tax parcels S 55 B 1 L 41.21 and 45; parcels located on the northern side of Old Mt. Peter Road 260± feet north of NYS Route 17A, in the RU zone, of the Town of Warwick, County of Orange, State of New York. A Type 2 Action was adopted on March 28, 2018. Approval is granted subject to the following conditions:

1. TW Building Department – 03/01/18: Tax Lot 55-1-41.21: two open permits (20122 for rear deck and 19111 for detached garage).
2. The 911 addresses must be shown on the plan.
3. The units in the Zoning Requirements table should be consistent (e.g., lot area should be in sf or acre).
4. In the Short EAF, Items 5b and 15 should be answered.
5. The beneficiary(ies) of the Right-of-Way shown must be called out on the plan.
6. Applicant to clarify if there is a shared driveway agreement for the Right-of-Way. Provide Right-of-Way to Planning Board Engineer's specifications.
7. The metes and bounds that cannot be located immediately adjacent to the line it is describing must have an arrow showing the line it is describing.
8. The metes and bounds for all lot lines, including the proposed lot lines, must be shown on the drawing.
9. 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."
10. Surveyor to certify that iron rods have been set at all property corners.
11. The liber and page for the deed referencing the changes made to the lot lines.
12. The liber and page for the Ridgeline Overlay Notes and Driveway Use Agreement must be added to the plan.
13. Payment of all fees.

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

Dave Getz: Thank you.

***Pioneer Farm Subdivision***

Application for Sketch Plat Review of a proposed 4-Lot (Minor) subdivision, situated on tax parcel S 52 B 1 L 26.2, parcel located on the southern side of NYS Route 94S (60NYS Route 94S), in the SL zone, of the Town of Warwick.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Jane Newman, Applicant.

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 – 03-09-18 advisory comments for no further development and Proposed Lots 3 and 4 will review ZBA variance; binding comment for potential impacts to the Conservation Easement
6. TW Building Department – 03-22-18 pending application for interior renovation (app#20170532), pool gate has a broken lock, two tiny homes need to be removed, two mobile homes need to be removed, install balusters and riser covers on main house deck stairNYSDOT – The existing shared driveway to Route 94 benefitting tax parcels 52-1-26.1 and 52-1-26.2 must be coordinated with NYSDOT.
7. ZBA variances are required for proposed Lots 3 and 4.
8. Proposed Lot 3 does not have any frontage on a public road.
9. Tax parcel 52-1-26.2 is a participating parcel in the AP-O since 09/08/16; Town Board Resolution #R2016-203.
10. The deed submitted is for three parcels: 215-1-12, 52-1-26.1, and 52-1-26.2.
11. The parcel areas seem inconsistent, Applicant to clarify line types and areas inside and outside of the conservation easement.
12. Proposed Lot 1 needs to state: Not for building purposes.
13. Applicant to clarify if subdivision is proposing one additional residential lot under the 1989 Zoning Law is permissible in accordance with §164-45.1D, which reads: Lots within the AP-O District qualifying area that were in existence on January 1, 2002, may be subdivided for one additional residential lot in accordance with the Table of Bulk Requirements of the 1989 Zoning Law for the underlying zoning district. The 1989 minimum lot size in the SL district is 1.5 acres.
14. The line types for proposed, existing, and farmstead complex must be consistent. Each line type must be different and called out in the legend.
15. The line type shown for the wetland buffer on the map is different than what is shown in the legend.
16. The line type (triangle) of the wetland should be added to the legend.
17. Applicant should clarify if the shaded wetland area would be acceptable to file this map at the Orange County Clerk's Office.

18. Applicant to clarify if the iron pins marked “to be set” have already been set.
19. The wetlands should be marked with what agency has jurisdiction (NYSDEC or USACE).
20. The wetland shading appears to have an incorrect small strip extension near proposed Lot 3; Applicant to clarify.
21. The proposed septic system would require soil testing witnessing by the Office of the Planning Board Engineer.
22. The improvements for Carroll Drive would need to be shown on the plan.
23. The proposed Lot 1 conservation easement restrictions that are in place should be noted on the plan.
24. Applicant must demonstrate that the driveway and all stormwater management can be constructed on Proposed Lot 2 without effecting the land being held in the Conservation Easement.
25. On the driveway profile for Proposed Lot 2, consider one longer sag curve between approximately station 2+00 to 4+00 instead of a series of 3 sag, crest, sag vertical curves, if grading permits.
26. A copy of the existing shared driveway and maintenance agreement for 52-1-26.1 and 52-1-26.2 must be submitted to the Planning Board (per filed map 10253, liber 3442 and page 79).
27. A shared driveway agreement must be prepared for proposed Lots 3 and 4.
28. The 911 addresses must be shown on the plan.
29. 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.”
30. Surveyor to certify that iron rods have been set at all property corners.
31. The liber and page for applicable overlay districts, the existing driveway agreement for lots 52-1-26.1 and 52-1-26.2, and the proposed shared driveway agreement for proposed lots 3 and 4 must be added to the plan.
32. The Performance Bond and site inspection fees would be required for the Carroll Drive improvements.
33. Payment of lieu of parkland fees per §75-3.A(2)(a)(3) for three lots.
34. Payment of all fees.

The following comment submitted by the Conservation Board:

Pioneer Farm Subdivision – None submitted.

The following comment submitted by the ARB:

Pioneer Farm Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: Under the SEQRA Regulations this application is an Unlisted Action. There is no need for a coordinated review even though there are 2 Agencies involved. The 2 Agencies are the Town of Warwick ZBA and the Village of Warwick Board of Trustees. Because this is a subdivision, there is not a lot we could really do under

SEQRA right now until the ZBA issued their variances on this project. The problem is if we went ahead and/or declared Intent to be Lead Agency then the Village Board wouldn't be able to grant the approvals for water and sewer for the 2 lots that are proposed near Carroll Drive.

Mr. Astorino: They need to go to the ZBA first then come back to the Planning Board to do SEQRA. Is that correct?

Mr. Fink: Yes.

Comment #2: Applicant to discuss project.

Dave Getz: The Pioneer Farm includes a total of 140± acres. The vast majority of the property is in PDR.

Dave Getz and Jane Newman shows the map to the Planning Board and discusses what part of the property is in PDR and what part is the subdivision which is close to Southern Lane. Ms. Newman also points out another piece of property located up at the top at the far end of the farm.

Mr. Astorino: That was retained through the PDR process as not active farmland. Is that correct? Is that why the site was chosen there?

Jane Newman: Yes.

Dave Getz: Right. It was reserved for possible development.

Jane Newman: The soils are not very good there.

Mr. Astorino: You used your prime soils for the PDR. Is that correct?

Jane Newman: Yes.

Mr. Bollenbach: What is the 3<sup>rd</sup> location that is not included in the PDR?

Dave Getz: It is a 4-lot subdivision being proposed. Lot 1, we have labeled as the majority of the property which is the remainder of the property.

Mr. Showalter: The 2<sup>nd</sup> lot is the one up on the hill.

Dave Getz: That one is from Route 94. The other two lots, Lot #3 and Lot #4 are coming off Carroll Drive.

Mr. Bollenbach: There is another portion of the property that is not included in the PDR.

Dave Getz: Yes.

Mr. Bollenbach: It is the upper corner piece. Looking at the map, you don't have it highlighted in green.

Dave Getz: Right. I just highlighted the proposed lots. It is the 3-acre piece.

Mr. Bollenbach: That is not included in the PDR. There is another parcel that is not to be subdivided.

Jane Newman: That is the houses.

Mr. Bollenbach: That is not in PDR. It has not been subdivided.

Dave Getz: Ok. We are not proposing to change that.

Mr. Astorino: Is the PDR a separate lot?

Mr. Bollenbach: That is not a separate lot. It is just a portion of the remainder lot that is not included in the PDR.

Mr. Astorino: Could it be a separate lot?

Mr. Bollenbach: Yes.

Mr. Showalter: Is that in accordance with the PDR?

Mr. Bollenbach: Yes.

Mr. Showalter: Ok. That cleared that up.

Dave Getz: The one proposed lot coming off Route 94 with the long driveway is proposed to have a well and septic. The other lots, even though they are in the Town, they are adjacent to the Village. Ms. Newman has approached the Village. She has received an updated letter from the Village that you haven't seen yet that clarifies and states that the Village is willing to provide water and sewer service to proposed Lot #3 and Lot #4.

Mr. Astorino: What is the acreage of those 2 lots?

Dave Getz: They are 1.5 acres each. Under the AP-O Regulations, one lot of that size is allowed based upon the fact that was the previous zone requirement for lot area. We are seeking a variance for one additional small lot that would be adjacent to Carroll Drive.

Mr. Astorino: We are waiting on what the ZBA says. We really can't go any further than where we are right now.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 03-09-18 advisory comments for no further development and Proposed Lots 3 and 4 will review ZBA variance; binding comment for potential impacts to the Conservation Easement

Mr. Fink: What OCPL didn't like was Lot #2 the one with the long driveway coming off Route 94.

Mr. Astorino: Let me read OCPL letter for the record. That way we could all be on the same page about this. The OCPL is dated 3/9/18. It is stated as follows:

*“The Department has received the above referenced minor subdivision and has determined that the intended land use has the potential to cause inter-municipal and countywide impacts. Therefore, the following binding comments should be address and may not be acted contrary upon except by a majority plus one vote of the members of the Town of Warwick Planning Board or by disapproving the action.*

- 1. Impacts to Conservation Easement: The Town of Warwick holds a conservation easement on 116.845 acres of the property (roughly analogous to the area designated as Lot 1). While the proposed improvements for Lot 2 are not located within the conservation easement, they are directly adjacent to it and have to potential to cause adverse impacts to the quality of the land under conservation. We therefore recommend that the Town Eliminate proposed Lot 2 and its excessively long driveway. Alternatively, the Town could locate the house on the portion of Lot 2 closest to Route 94.*

Mr. Astorino: We just discussed that where we said that you have saved the prime soils for PDR. You put the house on the less than prime soils in the back. That makes sense to me especially with the PDR. The County obviously didn't look in to that end of it. Does the Board agree on that?

Mr. Bollenbach: 50% of the funding was provided by the US Department of Agriculture. They have reviewed this particular layout. They had approve it. They determined that it did not have an adverse impact on the agricultural liability of the conservation easement.

Mr. Astorino: Ok. I just want us to all be on the same page about that. The OCPL letter goes on to state about the advisory comments as follows:

*Additionally, this Department offers the following advisory comments for your consideration.*

2. *Further Development: It was unclear whether the property is subject to a conservation easement held by the Town of Warwick or to a Purchase of Development Rights agreement, as both are referenced in the application. The Town should consider whether a deed restriction prohibiting further development on this property should be included as an additional protection measure.*

Mr. Astorino: We took care of that.

Mr. Bollenbach: We will add a note that the other lots would not be further subdivided.

Mr. Astorino: Except for that 3-acre piece. Is that correct?

Mr. Bollenbach: That 3-acre piece could still be subdivideable.

Jane Newman: On the map, there is also a piece located here that is not in PDR.

Mr. Astorino: How many acres is that?

Jane Newman: It is approximately 8 acres.

Mr. Astorino: Now, is that potentially subdivideable also?

Mr. Bollenbach: I don't know. I would have to verify that.

Mr. Astorino: Please verify that. Let's clean all of this up as we go through this.

Dave Getz: Ok.

Jane Newman: We would want to subdivide this piece at some time; parcel SBL 52-1-26.2.

Ms. Little: Where is the access to get there? Would it be through the Town or Village?

Jane Newman: The access would be through the Village on Grove Street.

Dave Getz: There is a water easement along there.

Mr. Astorino: Dave, could you show that and clean this up so that we know what we are talking about?

Dave Getz: Yes.

Mr. Astorino: It is pretty wet in there. Is that even buildable?

Jane Newman: Yes.

Laura Barca: Who owns that little piece? There is Grove Street...

Mr. Showalter: There is a tiny little sliver in there.

Laura Barca: Yes. Who owns that tiny little sliver?

Dave Getz: I believe it is a Paper Street for the Village.

Mr. Astorino: Dave, you really need to clean this up. You need to let us know what is going on here. You also need to go to the ZBA.

Dave Getz: Ok.

Mr. Astorino: The final part of OCPL letter is stated as follows:

3. *Additional Reviews: Proposed Lots 3 and 4 are below the minimum parcel size for lots in the SL zone. As such, the project should be referred to the Town Zoning Board of Appeals, and again to the County Planning Department.*
4. *A NYSDOT curb cut permit is required for access onto NYS Route 94 lot 2.*

Comment #6: TW Building Department – 03-22-18 pending application for interior renovation (app#20170532), pool gate has a broken lock, two tiny homes need to be removed, two mobile homes need to be removed, install balusters and riser covers on main house deck stair NYSDOT – The existing shared driveway to Route 94 benefitting tax parcels 52-1-26.1 and 52-1-26.2 must be coordinated with NYSDOT.

Dave Getz: Ok.

Comment #7: ZBA variances are required for proposed Lots 3 and 4.

Dave Getz: Ok.

Mr. McConnell: Are those in the Town and not in the Village?

Mr. Astorino: Those are in the Town. But the access is in the Village including the sewer and water. The lot size will be going to the ZBA for the lot size on the one lot.

Laura Barca: They will need a 280(a) variance for the lot in the back.

Comment #8: Proposed Lot 3 does not have any frontage on a public road.

Mr. Astorino: That would be the 280(a) variance.

Dave Getz: Yes. Do you want a driveway agreement for the shared portion of it?

Mr. Astorino: Yes.

Dave Getz: Ok.

Comment #9: Tax parcel 52-1-26.2 is a participating parcel in the AP-O since 09/08/16; Town Board Resolution #R2016-203.

Mr. Astorino: That does give you a Lot to the 89' Code. That will take care of that.

Dave Getz: Ok.

Mr. Astorino: Laura, regarding the rest of the comments 10 through 34, I know that these are all comments that we will be going through. But until we get a determination from the ZBA, I am going to list them for the record. Is that ok?

Laura Barca: That will be fine.

Mr. Astorino: We will list Comment #10 through #34 for the record. Once you are done with the ZBA then you will be back before us. We will send you to the ZBA without Planning Board recommendation.

Dave Getz: Ok. Thank you.

Comment #10: The deed submitted is for three parcels: 215-1-12, 52-1-26.1, and 52-1-26.2.

Comment #11: The parcel areas seem inconsistent, Applicant to clarify line types and areas inside and outside of the conservation easement.

Comment #12: Proposed Lot 1 needs to state: Not for building purposes.

Comment #13: Applicant to clarify if subdivision is proposing one additional residential lot under the 1989 Zoning Law is permissible in accordance with §164-45.1D, which reads: Lots within the AP-O District qualifying area that were in existence on January 1, 2002, may be subdivided for one additional residential lot in accordance with the Table of Bulk Requirements of the 1989 Zoning Law for the underlying zoning district. The 1989 minimum lot size in the SL district is 1.5 acres.

Comment #14: The line types for proposed, existing, and farmstead complex must be consistent. Each line type must be different and called out in the legend.

Comment #15: The line type shown for the wetland buffer on the map is different than what is shown in the legend.

Comment #16: The line type (triangle) of the wetland should be added to the legend.

Comment #17: Applicant should clarify if the shaded wetland area would be acceptable to file this map at the Orange County Clerk's Office.

Comment #18: Applicant to clarify if the iron pins marked "to be set" have already been set.

Comment #19: The wetlands should be marked with what agency has jurisdiction (NYSDEC or USACE).

Comment #20: The wetland shading appears to have an incorrect small strip extension near proposed Lot 3; Applicant to clarify.

Comment #21: The proposed septic system would require soil testing witnessing by the Office of the Planning Board Engineer.

Comment #22: The improvements for Carroll Drive would need to be shown on the plan.

Comment #23: The proposed Lot 1 conservation easement restrictions that are in place should be noted on the plan.

Comment #24: Applicant must demonstrate that the driveway and all stormwater management can be constructed on Proposed Lot 2 without effecting the land being held in the Conservation Easement.

Comment #25: On the driveway profile for Proposed Lot 2, consider one longer sag curve between approximately station 2+00 to 4+00 instead of a series of 3 sag, crest, sag vertical curves, if grading permits.

Comment #26: A copy of the existing shared driveway and maintenance agreement for 52-1-26.1 and 52-1-26.2 must be submitted to the Planning Board (per filed map 10253, liber 3442 and page 79).

Comment #27: A shared driveway agreement must be prepared for proposed Lots 3 and 4.

Comment #28: The 911 addresses must be shown on the plan.

Comment #29: 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."

Comment #30: Surveyor to certify that iron rods have been set at all property corners.

Comment #31: The liber and page for applicable overlay districts, the existing driveway agreement for lots 52-1-26.1 and 52-1-26.2, and the proposed shared driveway agreement for proposed lots 3 and 4 must be added to the plan.

Comment #32: The Performance Bond and site inspection fees would be required for the Carroll Drive improvements.

Comment #33: Payment of lieu of parkland fees per §75-3.A(2)(a)(3) for three lots.

Comment #34: Payment of all fees.

***H&M Corporation Subdivision***

Application for Sketch Plat Review of a proposed 2-Lot (**Minor**) subdivision, situated on tax parcel S 49 B 2 L 16; parcel located on the South side of State Route 94 directly across of Jockey Hollow Road (309 (State Rte: 94S), in the LB zone, of the Town of Warwick.

Representing the applicant: Dan Getz from Lehman & Getz Engineering.

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 – 02/15/18 comments: obtain letters from NYSDEC, NYSOPRHP, USACE to confirm if project requires mitigation measures; project is in aquifer protection overlay – stormwater infiltration is prohibited but must be managed on-site and auto repair shop must handle waste products appropriately
6. TW Building Department – 01/24/18 need CO for Green Point Insurance; small advertising signs need to be removed (only store signs are permitted).
7. NYSDOT – for driveway entrance off of State Route 94
8. OCDOH – a restaurant requires DOH approval for well and septic system, need to confirm DOH approval
9. Planning Board may wish to schedule a site inspection (screen existing parking in front setback, dumpster screening, compliance with special conditions, etc.).
10. A legend should be added to drawing.
11. Applicant to clarify if there are archeologically sensitive areas within the proposed subdivision (this was marked as “yes” in EAF).
12. Applicant to clarify if there are threatened/endangered species (this was marked as “yes” in EAF).
13. If there are any possible proposed uses that are not currently shown on the plan, these uses should be added to the plan.
14. All special conditions (§164.46.J) must be added to the plan.
15. Building setback lines do not appear to be shown on proposed Lot 2.
16. Sheet 1, Notes 9 and 10 should remove the word “proposed” if the well and septic system are existing.
17. Applicant to clarify the purpose of the rectangle next to the restaurant’s grease trap.
18. Sheet 1, Note 9 states that one well will service both lots, Applicant may need a transportation corporation to share a well for two properties; OCDOH to determine.
19. The water service line to the Auto Repair Shop should be shown from the well to the Shop.
20. Sheet 1, Note 11 should include the date of the field survey.
21. Sheet 1, Note 15 is not sufficient. The size of the septic systems must be shown with existing/proposed uses. Additional information must be provided to clarify the trigger for when the well and septic systems require additional Engineering review.
22. Water and septic calculations must be provided to demonstrate that the existing septic systems are adequate and functioning.
23. The existing signage needs to comply with the current signage requirements (§164.43).
24. Cross lot easements are required for water line, septic line, drainage line, and signage (existing sign by the road if Auto Repair Shop uses it).

25. Applicant must update the plan with 911 addresses.
26. 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."
27. The declaration information for the Aquifer Overlay Notes, and Driveway Use and Maintenance Notes must be added to the plans.
28. The surveyor must sign and seal the plan.
29. Surveyor to certify that iron rods have been set at all property corners.
30. Payment of fee in lieu of parklands per §75-3.A(2)(a)(3) for one lot.
31. Payment of all fees.

The following comment submitted by the Conservation Board:

H&M Corporation Subdivision – None submitted.

The following comment submitted by the ARB:

H&M Corporation Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This is the same story as the previous application that we just had tonight. Under SEQRA Regulations this application is an Unlisted Action. There is no need for a coordinated review even though the ZBA is involved. This application requires ZBA variances. Once they go and come back from the ZBA, then we could do SEQRA.

Comment #2: Applicant to discuss project.

Dan Getz: This is the shopping area right across from Jockey Hollow Road. It is located on Route 94. The Applicant proposes to divide the existing lot. It is one lot with 2-commercial buildings on it. There are no changes to the buildings proposed. There are no changes to the uses or to the proposed uses. The one building is a multi-tenant commercial building.

Mr. Astorino: There will be no changes to the parking or anything. Is that correct?

Dan Getz: Yes.

Mr. Astorino: There would be no physical changes to the property except for the lot line. Is that correct?

Dan Getz: Yes. The only proposed change is the lot line.

Mr. Astorino: Ok. Do any Board members have any questions?

Ms. Little: The reason for this is because one of the tenants wants to purchase a building. Is that correct?

Dan Getz: Right.

Mr. Bollenbach: I believe it is the parcel on the left. It is the one with the Auto Shop. Is that correct?

Dan Getz: Yes.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 02/15/18 comments: obtain letters from NYSDEC, NYSOPRHP, USACE to confirm if project requires mitigation measures; project is in aquifer protection overlay – stormwater infiltration is prohibited but must be managed on-site and auto repair shop must handle waste products appropriately.

Mr. Astorino: I assume they have been doing that. They have been operating for quite a while.

Mr. Bollenbach: We can just make sure that they provide a contract.

Mr. McConnell: Things have changed.

Dan Getz: Regarding the letters from the DEC, SHPO, & ACOE, we are not proposing any physical changes to the site.

Mr. Astorino: Laura, do you need that?

Dan Getz: Our office was thinking that those things might not be necessary.

Mr. Bollenbach: There is no physical alteration to the property.

Mr. Astorino: Does the Board want to do a site visit to make sure things are functioning properly?

Mr. Fink: Yes.

Laura Barca: Yes.

Mr. Bollenbach: Check to see if they are in compliance with the prior approval.

Mr. McConnell: I think when you have as many hazardous toxic materials as an auto repair shop, you would want to put an eye ball on it to make sure it is being handled properly.

Mr. Astorino: I am sure that our Professionals could do that for us.

Mr. McConnell: Yes.

Mr. Astorino: Touch base with Ted and Laura on this. Maybe we will run out there to see what is going on. They need to go to the ZBA after this anyway.

Dan Getz: Ok.

Comment #6: TW Building Department – 01/24/18 need CO for Green Point Insurance; small advertising signs need to be removed (only store signs are permitted).

Dan Getz: Yes. The owner is working on that.

Comment #7: NYSDOT – for driveway entrance off of State Route 94.

Dan Getz: We have contacted the NYSDOT. We were told that the only concern that they would have is that there is an easement in place for the shared driveway. They had asked us to send them a set of plans. We have sent the plans to them. We have not heard back from them yet. We have also sent them the Draft of the easement.

Mr. Bollenbach: Provide us with a letter of documentation. When you receive that, we could incorporate that.

Dan Getz: Ok.

Comment #8: OCDOH – a restaurant requires DOH approval for well and septic system, need to confirm DOH approval

Dan Getz: Yes. We have contacted OC Health Department. They wrote us a letter about their position on that. I believe we provided a copy of that letter to Laura.

Laura Barca: Yes. They basically had said as long as there is a written agreement they could share the well between the two parcels. The reason is because it is existing. It has been going on. They monitor it. They are comfortable with that.

Dan Getz: Right.

Laura Barca: That could be written in the shared driveway declaration. They could also have the shared well written in the declaration.

Mr. Bollenbach: We would also need a map note regarding that.

Dan Getz: Ok.

Comment #9: Planning Board may wish to schedule a site inspection (screen existing parking in front setback, dumpster screening, compliance with special conditions, etc.).

Mr. Astorino: Does the Board wish to go out there?

Mr. Showalter: No.

Ms. Little: I have been there many times.

Mr. Astorino: We could send Laura and Ted out there one night before a meeting.

Mr. McConnell: My only reason for bring up about the repair shop is that I had just seen an enforcement action by a DEC officer for an existing shop. I don't know why. Probably a neighbor dropped a dime on them that said they weren't storing used oil properly, etc... There are lots of toxic materials out there that maintains our automobiles. You want to make sure that it is being handled properly.

Mr. Bollenbach: Yes.

Mr. McConnell: There is no need for the Board to go out to the site. Our Professionals should go out and recognize those things.

Mr. Astorino: Yes. The Applicant will need to go to the ZBA. We will send them to the ZBA without recommendation from the Planning Board. We will list Comment #10 through Comment #31 for the record. Once you are done with the ZBA, then you will come back before the Planning Board. Laura and Ted, maybe before the next meeting, you could take a ride out there.

Laura Barca: Yes.

Mr. Fink: Yes.

Dan Getz: Does this project require a public hearing?

Connie Sardo: Yes. It is a subdivision. It will require a public hearing.

Dan Getz: Ok. Could we be set for a public hearing?

Connie Sardo: The Planning Board needs to do SEQRA first.

Mr. Astorino: Once you get back from the ZBA, we could then do SEQRA. Once that is done, then we could set you for a public hearing.

Dan Getz: Ok. Thank you.

Comment #10: A legend should be added to drawing.

Comment #11: Applicant to clarify if there are archeologically sensitive areas within the proposed subdivision (this was marked as "yes" in EAF).

Comment #12: Applicant to clarify if there are threatened/endangered species (this was marked as “yes” in EAF).

Comment #13: If there are any possible proposed uses that are not currently shown on the plan, these uses should be added to the plan.

Comment #14: All special conditions (§164.46.J) must be added to the plan.

Comment #15: Building setback lines do not appear to be shown on proposed Lot 2.

Comment #16: Sheet 1, Notes 9 and 10 should remove the word “proposed” if the well and septic system are existing.

Comment #17: Applicant to clarify the purpose of the rectangle next to the restaurant’s grease trap.

Comment #17: Sheet 1, Note 9 states that one well will service both lots, Applicant may need a transportation corporation to share a well for two properties; OCDOH to determine.

Comment #19: The water service line to the Auto Repair Shop should be shown from the well to the Shop.

Comment #20: Sheet 1, Note 11 should include the date of the field survey.

Comment #21: Sheet 1, Note 15 is not sufficient. The size of the septic systems must be shown with existing/proposed uses. Additional information must be provided to clarify the trigger for when the well and septic systems require additional Engineering review.

Comment #22: Water and septic calculations must be provided to demonstrate that the existing septic systems are adequate and functioning.

Comment #23: The existing signage needs to comply with the current signage requirements (§164.43).

Comment #24: Cross lot easements are required for water line, septic line, drainage line, and signage (existing sign by the road if Auto Repair Shop uses it).

Comment #25: Applicant must update the plan with 911 addresses.

Comment #26: 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.”

Comment #27: The declaration information for the Aquifer Overlay Notes, and Driveway Use and Maintenance Notes must be added to the plans.

Comment #28: The surveyor must sign and seal the plan.

Comment #29: Surveyor to certify that iron rods have been set at all property corners.

Comment #30: Payment of fee in lieu of parklands per §75-3.A(2)(a)(3) for one lot.

Comment #31: Payment of all fees.

**Other Considerations:**

1. Planning Board to Approved PB Minutes of 1/31/18.

Mr. Showalter makes a motion to Approve the Planning Board Minutes of 1/31/18.

Seconded by Ms. Little. Motion carried; 5-Ayes.

2. **Gables At Warwick Subdivision** – Received letter from Karen Emmerich, Lehman & Getz Engineering addressed to the Planning Board dated 2/27/18 in regards to the Gables At Warwick Subdivision – requesting a 6-Month Extension + 2<sup>nd</sup> Re-Approval of “Amended” Final Approval of a proposed 15-Lot Cluster subdivision, situated on tax parcel SBL # 44-1-132; parcel located on the southern side of State Hwy 17A at the intersection of east end of Ketchum Road, in the RU zone, of the Town of Warwick. Conditional “Amended” Final Approval was granted on 6/15/16. *The Applicant has stated that the economic climate is still not favorable for single-family residential development that includes the construction of roads.* The 6-Month Extension becomes effective on 12/15/17. The 2<sup>nd</sup> Re-Approval of Amended Final Approval becomes effective on 6/15/18; subject to the conditions of approval granted on 6/15/16.

Mr. Showalter makes a motion on the Gables At Warwick Subdivision, granting 6-Month Extension + “**2<sup>nd</sup> Re-Approval**” of Amended Final Approval of a proposed 15-Lot Cluster subdivision, situated on tax parcel S 44 B 1 L 132; parcel located on the southern side of State Hwy 17A at the intersection of east end of Ketchum Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of “Amended” Final Approval granted on 6/15/16.

The 6-Month Extension becomes effective on 12/15/17.

The 2<sup>nd</sup> Re-Approval of Amended Final Approval becomes effective on 6/15/18; subject to the conditions of approval granted on 6/15/16.

Seconded by Ms. Little. Motion carried; 5-Ayes.

Ms. Little: Are they stating here that it is the road cost that is the issue?

Mr. Astorino: I would assume so.

Laura Barca: Yes.

Mr. Astorino: The biggest issue is the cost to do the roads and the bonds.

Ms. Little: The housing market is doing well. There is a shortage of supply.

Mr. Astorino: It costs a couple of millions of dollars to put the roads in.

3. **Avanzato/Kurtz Lot Line Change** – Received letter from John McGloin, PLS., addressed to the Planning Board dated 3/15/18 in regards to the Avanzato/Kurtz Lot Line Change – requesting 6-Month Extension on Final Approval of a proposed lot line change, situated on tax parcels SBL # 51-1-8.12 & 8.13; parcels located on the northeastern side of Bittersweet Way 440± feet east of Warwick Turnpike, in the RU zone, of the Town of Warwick. Conditional Final Approval was granted on 10/18/17. *The Applicant has stated that they are currently in the process of filing the required declarations and deeds.* The 6-Month Extension becomes effective on 4/18/18.

Connie Sardo: That holds true. I have spoken to John McGloin about this. He is pretty much done with it. The same goes with the next extension for the Branley application.

Mr. Showalter makes a motion on the Avanzato/Kurtz Lot Line Change application, granting a 6-Month Extension on Final Approval of a proposed Lot Line change. Final Approval was granted on 10/18/17. SBL # 51-1-8.12 & 8.13.

The 6-Month Extension becomes effective on 4/18/18.

Seconded by Ms. Little. Motion carried; 5-Ayes.

4. **Branley, Placido, Smith & Rothschild Lot Line Change** – Received letter from John McGloin, PLS., addressed to the Planning Board dated 3/15/18 in regards to the Branley, Placido, Smith & Rothschild Lot Line Change – requesting 6-Month Extension on Final Approval of a proposed 5-Lot lot line change, situated on tax parcels SBL #33-1-40, 41.11, 42.2, 42.3, & 43.21; parcels located on the northern side of East Ridge Road at the intersection of Belcher Road, in the RU zone, of the Town of Warwick. Conditional Final Approval was granted on 10/18/17. *The Applicant has stated that they are currently in the process of filing the required declaration and deeds.* The 6-Month Extension becomes effective on 4/18/18.

Mr. Showalter makes a motion on the Branley, Placido, Smith & Rothschild Lot Line Change application, granting a 6-Month Extension on Final Approval of a proposed 5-Lot Lot Line Change. Final Approval was granted on 10/18/17. SBL # 33-1-40, 41.11, 42.2, 42.3 & 43.21.

The 6-Month Extension becomes effective on 4/18/18.

Seconded by Ms. Little. Motion carried; 5-Ayes.

5. Planning Board to discuss cancelling the 3/26/18-W.S. & 4/4/18-PB Meeting.

Mr. Showalter makes a motion to cancel the 3/28/18-W.S. & 4/4/18-PB Meeting.

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

### **Correspondences:**

1. Memo from Town Board, dated 3/28/18 in regards to Chapter 164-60 Zoning Revisions. Town Board public hearing scheduled for 4/12/18 @ 7:00pm.

Mr. Astorino: That is in our packets. Connie will also email that to you tomorrow. We can discuss this at our April 9<sup>th</sup> Work Session.

### **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 March 28, 2018 Planning Board Meeting.**

Seconded by Ms. Little. Motion carried; 5-Ayes.

