

TOWN OF WARWICK PLANNING BOARD

October 20, 2021

Members present: Chairman, Benjamin Astorino
Roger Showalter, Vice-Chairman
Dennis McConnell, Bo Kennedy,
John MacDonald, Rich Purcell, Alt.
Laura Barca, HDR Engineering
J. Theodore Fink, Greenplan/via WebEx
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, October 20, 2021 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF John, Thomas and Amy Sibilla

Application for Final Approval of a proposed 4-Lot subdivision, situated on tax parcel S 27 B 1 L 116; parcel located on the right side of Skysail Lane 1000 feet south of Amity Road (7 Skysail Lane), in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying.
Thomas & Amy Sibilla, Applicants.

Connie Sardo: Mr. Chairman, we received the certified mailings for the Sibilla Subdivision.

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 – 03/10/21 no advisory comments
6. TW Building Department – 01/28/21 permit 16303 for shed/fence has expired; permit 17584 for pool has expired; permit required for hot tub. Permit 16303 has been closed.
7. ZBA: Proposed Lot 1 (the existing home) has a front yard setback of 50-ft when 75-ft is required, and all lots required a 280(a) for access from a non-public road. 05/24/21 Front yard setback was withdrawn; variance granted for all four lots 280(a)
8. Please include Erosion and Sediment Inspection requirements in notes on drawing set.
9. There is a “Swale” linetype on PB-3 and PB-4 which is not shown in the legend. A detail of this swale should be added to the plans to enable the contractor to build the swale.
10. The upper portion of Skysail Lane must be improved to be a 16-ft wide shared driveway; the lower portion was previously improved as part of the Colburn-Kennedy Subdivision. The grading along improved portions of Skysail Lane should be shown to be within the disturbed area. (These improvements are already shown on the plan.)
11. A shared driveway agreement for all existing lot and the proposed new lots must be prepared and submitted.

12. 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 1, General Note 13
13. Surveyor to certify that iron rods have been set at all property corners.
14. The liber and page for the Agricultural and Biodiversity notes (Indiana Bat), as well as the Shared Driveway Agreement must be added to the plan.
15. A performance bond and site inspection fees for the driveway improvements must be submitted.
16. Payment in lieu of parkland for three lot per Town of Warwick Town Code §75-3.A.(2)(a)[3].
17. Payment of all fees.

The following comment submitted by the Conservation Board:

John, Thomas and Amy Sibilla – None submitted.

The following comment submitted by the ARB:

John, Thomas and Amy Sibilla – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This application is an Unlisted Action under SEQRA. The Planning Board declared itself Lead Agency back on 3/17/21. There were a number of SEQRA issues that needed to be investigated. We received a study that has been done by ERS Consultants for habitats on the site. We received a notice from the NYSDEC that there were Indiana Bats within the area. Dave Griggs went out to the site. He had done a habitat analysis. He had found that there was no winter habitat on the site. He did find a summer time habitat on the site for the Indiana Bats and the Long-Eared Bats. In the summer time the bats roost in the trees. The typical mitigation that the NYSDEC requests is a restriction on tree cutting that would last from April 1st to September 30th. Any trees that are over 5” in diameter are generally requested not to be cut during that period. He also investigated for Bog Turtles on the site. He found no suitable Bog Turtle habitat on the site. The wetland on the site would not be disturbed. The wetlands are about 600 feet away from the nearest construction activity. The State had also identified this property within an archeological sensitive area. A letter was requested from the State as to whether or not they felt there would be any potential impacts on archeological resources. We did receive a letter back that they had no concerns about State or National registered resources that would be impacted by the proposed subdivision. As far as the Stormwater Pollution Prevention Plan (SWPPP), that has been prepared. The plan identifies the disturbance from the 3 lots of 2 acres on the 35-acre site. It incorporates erosion control and sedimentation avoidance measures. I have reviewed the letter that came into by email today from neighbors. They had concerns about water supply on this side of town. We do not have any further information on that at this time. That is something as far as SEQRA review is concerned, it’s a potential impact on water resources. It is one of the questions that needs to be answered on the SEQRA Forms. Those are the issues that have been brought to my attention.

Mr. Astorino: Let's discuss the water issue. Ted, do you want to explain the Old World Estates subdivision that is adjacent to this property? I believe that is what we are discussing regarding the quantity and quality of the water to be tested. There was a protocol in place for the Old World Estates subdivision to reach out to adjoining properties that were within 1000 feet. I believe that is the case. Is that correct?

Mr. Fink: This goes back about 15 years ago. Is the Old World Estates subdivision directly adjacent to the Sibilla subdivision?

Dave Getz: Yes.

Mr. Fink: In that subdivision water availability had been identified as a problem with water supply issues. The Planning Board had directed the Applicant to drill a well on each of the proposed lots on the site and to conduct well pump testing to determine what the impacts were. The Applicant went forward and contacted property owners within 1000 feet of the site. They were invited to participate in a well study monitoring program of 6 off-site wells in the Old World Estates subdivision. They were tested as pumping was done over a period of 3 days. Water levels were monitored. These were tests that were conducted under NYS Department of Health standards for this sort of thing. What the subdivision needed to do based upon the testing that there had to be at least 2 g.p.m. yield for each of the wells. Any lot that had a well yield between 2 and 5 g.p.m. must have a storage volume of 520 gallons. That was the primary mitigation that was required for the Old World Estates subdivision.

Mr. Astorino: That is apparently where we are for the testing at this point.

Thomas Sibilla: What were the results of those tests?

Mr. Astorino: I believe they came back fairly good. John and Ted, is that correct? I believe they were not out of the ordinary. I believe there was a lot that needed to dig an additional well to get the water volume.

Mr. Bollenbach: There was also storage.

Mr. Astorino: I don't know if there were any that required the storage. We could go back and take a look at that. There is a history of water quantity issues out there. That is why that measure was taken.

Dave Getz: Regarding the Old World Estates subdivision, the study did show on one of the lots that they dug down 600 feet and hit water but couldn't get a yield. Then they drilled a second well which is acceptable. We did have issues on one individual lot. We had done 2 studies. Both of those studies showed no impacts on any of the neighboring lots.

Mr. Astorino: Ok.

Thomas Sibilla: The subdivision that occurred back in the year 2007 on Skysail Lane. That was a 3-lot subdivision. Was there a no requirement for that?

Mr. Astorino: Ted, did you look into the Colburn subdivision that is at the end of Skysail Lane?

Mr. Fink: The Colburn subdivision was also done a number of years ago. It was my understanding that there were no red flags that were raised on that particular subdivision from a water supply standpoint.

Thomas Sibilla: We are on the same lane.

Mr. Bollenbach: It is in the rear. It is further back. It is in a different location.

Dave Getz: These lots are closer to the Colburn subdivision than the Old World Estates subdivision.

Mr. Showalter: You are adding 3 new dwellings to this property. Ted, this was already approved years ago.

Mr. Astorino: Here is my issue whether Colburn was missed or not. Perfectly honest, I don't know.

Amy Sibilla: I believe this was specifically asked when this was first started.

Mr. Astorino: I totally understand that. My frustration level is a little high this evening. I will put that on the record. I would like to see that on the record. This Board, I will speak for this Board and if anyone disagrees with me, please let me know. This Board will not approve anything unless they feel it is correct. If something was missed and we have to go backwards a little bit, we will do that. We will eat it. We will admit it. We will go forward. It will be done right. Every subdivision that goes before this Board, I will vouch for every one of these members, we will make sure it is correct. Sometime things do happen.

Amy Sibilla: Last week you thought it was ok.

Thomas Sibilla: Ted was on the call last week.

Mr. Astorino: I totally understand that. I want to point something else out. If we, do it incorrectly but the time saved now is going to be brought back tenfold in a challenge. That is not good for anybody.

Mr. McConnell: It takes less time to do it right then to fix it then to do it wrong.

Thomas Sibilla: We have been saying it all along about doing it right.

Mr. Astorino: I understand that. This Board is going to have a discussion. We will be discussing amongst ourselves at another time.

Mr. McConnell: I don't want to give you the impression that I thought you had done something wrong. I apologize if I had left you with that impression.

Thomas Sibilla: Never.

Amy Sibilla: No.

Mr. McConnell: We'd rather be sure that we have done it right then take the time somewhere down the road to have to redo it.

Amy Sibilla: We are absolutely fine with that. We understand.

Mr. Astorino: I appreciate that.

Mr. Fink: John would remember this when John and I were the only ones around was regarding the Bittersweet subdivision that was originally proposed for 8 lots. They ran into a water supply problem. They wound up only having sufficient water to accommodate 2 lots in that subdivision. That was a fiasco that happened in the 1990's. These things some times do happen.

Mr. Showalter: I want to apologize on my behalf to Mr. & Mrs. Sibilla. I am embarrassed that this has taken place right now. There is no excuse for this. This was done. You have a professional there that is very good at his job. I know Mr. & Mrs. Sibilla personally. I know what they do. They do things right. I apologize to what you are going through.

Mr. Astorino: I could echo that sentiment for myself. We are going to move forward. We are not going backwards. To the members of the public, you will be given an opportunity to speak tonight. This public hearing will be adjourned. You will be re-noticed. The Applicant unfortunately has some time ahead of them to get these tests done.

Amy Sibilla: Is it possible another road block could come up?

Mr. Astorino: I could almost guarantee you that every I and every T is going to be dotted and crossed. It is going to be done correctly. As it was pointed out, this project has been before us for a while. If this was noted earlier, this conversation would not have happened. You have already agreed to take care of the testing. Quite frankly this public hearing would be happening right now. But we don't have the information in front of us to answer anybody's concerns. We could go through the process. We will take care of our end. I can assure you of that. There are other comments this evening. We will open it up to the public for their comments. Some we might be able to answer. Some we might not be able to answer.

Thomas Sibilla: Since we have come this far and we were here for the original scenario that you had planned today, why not make this approval contingent?

Mr. Astorino: It is a SEQRA issue. It is a State Environmental review. We cannot do that.

Thomas Sibilla: Ok.

Amy Sibilla: We have already dumped a lot of money into this. I would be happy to have the wells drilled. I think we could sell the lots with the wells on them. I am fine with that. What I am really concerned with is what's going to be next? There is no guarantee?

Mr. Astorino: You are right. There is no guarantee. I don't know what the public is going to bring up this evening. I don't know if there are going to be mitigation matters that are going to be considered? The Town of Warwick has a Code. This Board follows the Code. You will follow the Code. If you don't follow the Code, it won't be approved. We follow the Code. Rest assure that these issues will be addressed. Let us go through the rest of these comments tonight. We will then open it up to the public. I will later explain the process about going forward.

Thomas Sibilla: Ok.

Comment #2: Applicant to discuss project.

Dave Getz: The Sibillas have about 35.7 acres. It includes their existing home off Skysail Lane which is off Amity Road. The Applicants propose 3-new dwellings along with 1-existing dwelling. The proposed lot sizes for two of the lots are 4 acres per proposed dwelling and the 15.7 acres would stay with the existing house. Lot #4 would have 12 acres. There would be approximately 2.7 acres of disturbance by construction of new driveways, new houses, wells and septics. Since our last appearance, the Applicant received 280(a) variance from the ZBA. There will be a new Maintenance Agreement for Skysail Lane. That is in the process of being prepared. It will be submitted to the Planning Board for review. Looking at the map, Skysail Lane is a private road for the first 800 feet. That first 800 feet was improved during the approval of the Colburn-Kennedy subdivision. That called for the road to be widened to 18 feet including 16 feet of asphalt. The remainder from that point up to Lot #4 would be improved to the Town's standards for shared driveway which includes 16 feet of pavement. There are some existing utility poles on the property. They will not be removed. There would be no changes to the existing overhead wires. Looking at the map, the dark line that is located here is for a proposed 8-foot retaining wall. That would be needed as we widen the driveway along the property line to the north. All of the disturbance would be kept withing the Sibilla's property. There is no disturbance proposed on any other property. In terms of stormwater runoff patterns are generally towards the north towards the property with the Equestrian facilities. This project will not change the existing drainage pattern. It would not alter those patterns. By adding roughly 1/2-acre of new impervious which is spread out over the 37 acres, we can't say that there would be no effect on stormwater. It would be a mild effect on stormwater. It would not be a big increase in the impervious surface. We don't see any significant impacts resulting from that.

Mr. Astorino: Laura, you do have the SWPPP. Is that correct?

Laura Barca: Yes. My company has reviewed the SWPPP. It complies with all of the State's requirements in accordance with NYS Code.

Dave Getz: Right. My last statement is that with the new well testing is a new wrinkle that just came up. We came into tonight's meeting feeling very confident. We have done the soil testing that the Town had witnessed. Everything we are proposing is in accordance with the State and Town Codes for driveways, access, septics, wells, etc...

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 03/10/21 no advisory comments

Comment #6: TW Building Department – 01/28/21 permit 16303 for shed/fence has expired; permit 17584 for pool has expired; permit required for hot tub. Permit 16303 has been closed.

Mr. Astorino: The Sibilla's are working with the Building Department on those permits.

Comment #7: ZBA: Proposed Lot 1 (the existing home) has a front yard setback of 50-ft when 75-ft is required, and all lots required a 280(a) for access from a non-public road. 05/24/21 Front yard setback was withdrawn; variance granted for all four lots 280(a)

Dave Getz: Yes. We have added the ZBA Resolution to the plans.

Comment #8: Please include Erosion and Sediment Inspection requirements in notes on drawing set.

Dave Getz: Ok.

Comment #9: There is a "Swale" linetype on PB-3 and PB-4 which is not shown in the legend. A detail of this swale should be added to the plans to enable the contractor to build the swale.

Dave Getz: Ok.

Comment #10: The upper portion of Skysail Lane must be improved to be a 16-ft wide shared driveway; the lower portion was previously improved as part of the Colburn-Kennedy Subdivision. The grading along improved portions of Skysail Lane should be shown to be within the disturbed area. (These improvements are already shown on the plan.)

Dave Getz: Ok.

Comment #11: A shared driveway agreement for all existing lot and the proposed new lots must be prepared and submitted.

Dave Getz: Will do. The shared driveway would serve 5 lots.

Comment #12: 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 1, General Note 13

Dave Getz: Right.

Comment #13: Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: Ok.

Comment #14: The liber and page for the Agricultural and Biodiversity notes (Indiana Bat), as well as the Shared Driveway Agreement must be added to the plan.

Dave Getz: Ok.

Mr. Bollenbach: Depending on the well testing, there might be some additional Declaration notes.

Mr. Astorino: John, lets add a Comment #18 to note that regarding the well testing protocol, radon notes, etc...

Mr. Bollenbach: There would also be Franklin Marble and tremolite notes.

Mr. Astorino: Yes.

Comment #15: A performance bond and site inspection fees for the driveway improvements must be submitted.

Dave Getz: Ok.

Mr. Astorino: HDR will go out to inspect the retaining wall and driveways. They will make sure it is done to the standards.

Comment #16: Payment in lieu of parkland for three lot per Town of Warwick Town Code §75-3.A.(2)(a)[3].

Dave Getz: Ok.

Comment #17: Payment of all fees.

Dave Getz: Ok.

Mr. Astorino: There is going to be another note that would encompass the well testing, the testing of the adjoining properties, if they so choose to. We cannot force residents to be tested. If you receive a letter and want to be tested, that would be fine. If you don't want to be tested, that would be your option. We are not here to force anyone to do anything. This would include the wells to be dug on the property, the results, the radon, the Franklin Marble, and the tremolite notes. All of that would be encompassed. We would add that as Note #18. It would all be cleaned up and given to us before our next Workshop.

Mr. Bollenbach: Regarding the Franklin Marble, radon and tremolite. Those are construction notes. Those would be certain mitigation measures that would be put in place.

Dave Getz: Ok.

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

Mr. McConnell: Where you said about the retaining wall that needs to be built, did you say that would be on the north side or south side of the driveway?

Dave Getz: It would be on the north side. It would not disturb the old stonewall.

Mr. McConnell: Ok. Thank you.

Mr. Astorino: This is a public hearing. If there is anyone in the audience wishing to address the Sibilla subdivision, please rise and state your name for the record.

Elizabeth and Brian Korchin come up in front of the Board to address their concerns of the Sibilla subdivision.

Elizabeth Korchin: We live at 1 Skysail Lane. We have sent in an email of our comments regarding this project before this meeting.

Mr. McConnell: They were well done.

Elizabeth Korchin: Thank you. Our #1 concern is regarding safety. We had seen in the Planning Board Minutes of 3/17/21 there was a comment initially indicating that the road should be widened to 24 feet. We have just seen the map for the first time. Yesterday, we learned that the road would be 16 feet. Frankly, we have been concerned with the safety of Skysail Lane. It is uphill. It is pretty steep. There is a blind curve as we are coming out of our driveway. We have had some close calls.

Mr. McConnell: Could you please point out on the map where your home is located?

Elizabeth Korchin: Looking at the map, our property is located here and it adjoins on the back side width.

Mr. McConnell: In front of your house, is the road 18 feet?

Elizabeth Korchin: The road is 18 feet. We purchased the Colburn's property who had done the prior subdivision.

Mr. McConnell: Ok.

Elizabeth Korchin: I am not clear on why this upper side would only be a private driveway.

Mr. Astorino: Because it would serve 5 lots. In the Town Code it is considered a common driveway.

Elizabeth Korchin: Why would the lower side which only serves 3 lots be a private road that had to be 18 feet and you have 5 houses on a private driveway?

Mr. Astorino: You are allowed 6 houses off a common driveway. Laura, is that correct?

Laura Barca: The lower portion serves 3 plus 5. The lower portion serves more than the upper portion. The upper portion serves less. For example; it does serve your house or the next 2 houses that comes next in line. It is not serving them. It is serving less than 6-houses.

Elizabeth Korchin: Fair enough. We are concerned about traffic safety as people come careening down the hill.

Mr. Astorino: Are there speed limit signs on that road?

Elizabeth Korchin: There are speed limit signs. There are also caution/children playing signs.

Mr. Astorino: It is sad because every road in the Town has a speed limit sign. People have to be respectful of the speed limit. We don't know what you could do about it? We are following the Town Code. People are idiots when they don't follow the speed limits.

Elizabeth Korchin: We are the people on the road that everybody is tailgating.

Mr. McConnell: It may be of some comfort that it is a dead end. It is not like you would have thru traffic. What you are going to have are people coming down Skysail Lane. I only went on that road once. I certainly wasn't going to go careening down that road. The ditches on the side were enough to discourage me.

Brian Korchin: We have experienced it in the winter time as the road becomes more narrower as the snow is plowed. We have had ourselves and guests in our home slide down Skysail Lane.

Mr. Astorino: That could be worked out with the residents with a Maintenance Agreement of the road. In the wintertime, conditions could change hourly with ice and snow. I don't know what your contract is? If that is a concern, you should tell them that you need them there every 6 hours to salt the road. That would be something that would have to be worked out for a private road. It would have to be some sort of an agreement.

Mr. McConnell: That would be a Maintenance Agreement.

Mr. Astorino: Yes.

Elizabeth Korchin: That is fair enough. Our concern is having the road at 16 feet is not wide enough for 2 cars to go through at the same time. We already have this problem with 5 lots. There is also no place to pull off. Even where we live on the lower portion, if you see another car coming you have at least a few feet. You have to stop. When there is snow, you don't have a few feet to pull over.

Mr. Astorino: They will be adding shoulders to the road. I believe it is 1-foot of shoulders to 16 feet of pavement. Dave is that correct?

Dave Getz: Right now, we are only showing 16 feet of pavement.

Mr. Astorino: I thought we discussed that out at the site.

Mr. McConnell: I thought we had discussed that at the site when I had pointed out the proximity of the telephone poles to the paved road that there wasn't enough room there to put a shoulder.

Mr. Astorino: If you add a 1-foot shoulder that would give you that little extra for snow removal and a wheel track to push yourself over. Dave, please show 1-foot shoulder.

Dave Getz: Ok.

Elizabeth Korchin: That might address it. We have experienced in the winter that there is no margin for error. Because it is blinded there, I have had issues coming out. There is no place to avoid that.

Mr. Astorino: Unfortunately, that happens on every road in this Town because you don't have people that respect the speed limit. These are country roads that are 20 to 22 feet wide doing 30 to 40 MPH but are now doing 50 to 60 MPH. Do you have any other concerns?

Elizabeth Korchin: I don't understand why it could be a private driveway? At the time that the Colburns had done their subdivision, it wasn't serving more than 6 homes. There were 5 homes. Why was that required to be widened more?

Mr. Astorino: It is required because they added more lots. The Colburn-Kennedy subdivision were required to widen it to specifications for a private road up to that 800-foot mark. Now there is another 5 lots. Now this one has to be widened to handle to the Town Code Specifications.

Elizabeth Korchin: Why was there an initial comment that said it had to be a private road because more than 6 homes would access it?

Mr. Astorino: Was that in a comment back in March?

Laura Barca: That was done in the initial review.

Mr. Astorino: That was a review. That wasn't an approval. It was a discussion. There were minutes that were taken. A Board member or Professional could have come up with it. It was discussed. We follow the Town Code. At the site visit, we had discussed shoulders. Essentially, you would be getting an additional 2 feet. It might not be paved. But it would be giving you that extra 2 feet.

Mr. Showalter: Do you live in the house with the barn?

Elizabeth Korchin: Yes.

Mr. Showalter: You probably purchased your property approximately 1 to 2 years ago. Did you put in another driveway?

Elizabeth Korchin: Yes. We did.

Mr. Showalter: You have the original driveway that goes towards the barn. The barn is kind of hidden behind the rock.

Elizabeth Korchin: Yes.

Mr. Showalter: Then, there is another driveway that goes from the house and to the back of the road.

Elizabeth Korchin: It is like a U driveway. It is a one-way.

Mr. Showalter: In my opinion that should help you with the entrance and exit. It won't help the traffic on the road. It would help with maneuvering in and out of your place. It would help you loop around. That driveway came out very nice. It might help you there.

Elizabeth Korchin: We don't plow the new graveled driveway in the winter. It is now a one-way. The exit is located in a dangerous spot.

Mr. Astorino: Maybe with our Maintenance Agreement you could get together and add some speed bumps in the summer time that are removable for the winter time for plowing. That would be between the residents. It is a private road. That is not the Planning Board. That is between you and your neighbors.

Elizabeth Korchin: We have sent you by email a number of other questions.

Mr. Astorino: We have your emails. We will review your emails. They would be noted for the record. There will be no action taken tonight on this project.

Elizabeth Korchin: I don't think it would be possible to widen that road to 16 feet without removing the old stonewall. I thought that was mentioned before.

Mr. Astorino: It was. I am sure Mr. Getz would provide us with the details.

Elizabeth Korchin: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Sibilla subdivision?

Roy and Vicky Brachfeld come up in front of the Planning Board to address their concerns of the Sibilla subdivision.

Vicky Brachfeld: We own the Equestrian property on the other side. We sent an email to the Planning Board today. We have some questions and concerns. Looking at the map, we are located here. Everything here is French drains. Everything flows down. If you extend it this way, we don't know how it would affect all of our French draining?

Mr. Astorino: Let's clarify that issue. You are not going on their property. Is that correct?

Vicky Brachfeld: You said that you were going to put something down on the sides.

Mr. Astorino: You are not directing water to their property.

Dave Getz: Water does go towards their property.

Vicky Brachfeld: It floods.

Dave Getz: We are not disturbing up to their property line in any location.

Mr. Astorino: How far are you away from the property?

Dave Getz: The closest part would be near the wall. I can't tell you that right now. We could provide that information.

Dave Getz shows the map to Mr. and Mrs. Brachfeld along with the Sibillas. They discuss the locations of the properties. Mrs. Brachfeld points out the location of their horse paddock. Mr. Astorino asks Mr. Getz about the retaining wall. Mrs. Brachfeld states her concern of a drop off located on the property. That is why a retaining wall is needed. Mr. Astorino states that the retaining wall was discussed at the site visit. Mrs. Brachfeld shows Mr. Astorino a Right-Of-Way deeded easement that goes with all of the properties. It states in the deeded easement that none of the stonewalls or trees are to be disturbed. Mr. Astorino asked Mrs. Brachfeld if that was for their property or the Sibilla's property? Mrs. Brachfeld states that it is deeded to the Right-Of-Way that it goes to the Right-Of-Way. Mr. Astorino asked the Brachfeld's to provide the Planning Board with a copy of the deeded Right-Of-Way that they have. Mr. Astorino states, if you provide that to the Board, we would have our Attorney review it. We also have documentations from the Sibilla's about surveys and property ownership. That would be reviewed again also. Mr. Astorino states that would be how our Attorney would make the decision.

Vicky Brachfeld: I know you guys were out here, but as far as cutting in, I don't know how you could ride in the road without moving those utility poles. How could you do that?

Dave Getz: It would be done by widening at the opposite side.

Vicky Brachfeld: The poles are on either side. You could see how the plows chipped them out.

Roy Brachfeld: There are poles on the other side.

Dave Getz: The plan does show the poles.

Mr. Astorino: We had seen the poles. We would make sure they could do it. They would have to provide us with a plan. If they are not moving the poles, they would have to show us how they are doing it.

Roy Brachfeld: They would be disturbing the rock wall and trees. I don't know how they would be doing it.

Tom Sibilla: I think that line refers to the people that have an easement. We own that whole 50-foot swath.

Vicky Brachfeld: You told us it was a 30-foot. Now, you are stating it is a 50-foot?

Mr. Astorino: This is not between you two here. You need to address the Board. This is how it is going to play out. Mrs. Brachfeld, what you have in your hand, please provide a copy to us.

Vicky Brachfeld: We will have our Attorney provide that to you.

Mr. Astorino: You get that provided to us; we would have our Attorney review it. Do you have any other questions?

Roy Brachfeld: You were talking about a new Maintenance Agreement. Right now, Tom and I are doing the plowing. You would be having 3 more houses coming in. How do they force someone to do this?

Mr. Astorino: It would be put into a deed. You would have to be part of the Maintenance Agreement. I believe the Maintenance Agreement would be in the new deeds. John, is that correct?

Mr. Bollenbach: Yes.

Mr. Astorino: It would be stated in the new deeds that you would have to belong to this Maintenance Agreement. If they don't pay, then take them to Court. Everyone living there would have to chip in.

Vicky Brachfeld: How are you going to move the snow around over there?

Mr. Astorino: The same way you are doing it now.

Vicky Brachfeld: Right now, you have places to push it because there are no houses there yet. Once the houses are built there will be a problem.

Mr. Astorino: You have a Maintenance Agreement. If it snows, the road would be plowed. If the road gets torn up, it will be fixed. There should be monies on that. It shouldn't be on you. It should be shared with everyone that lives on that road.

Vicky Brachfeld: We have 2 access points.

Roy Brachfeld: Where would all the garbage be going?

Mr. Astorino: People would have to take care of it. What do you do with your garbage?

Roy Brachfeld: We have a dumpster. If they bring their cans down to the bottom of the road, how many cans are going to be lined up?

Mr. Astorino: They would have to bring them back up.

Vicky Brachfeld: They sit there for days on our side.

Mr. Astorino: That would be a Code Violation.

Vicky Brachfeld: Who would I call about that.

Mr. Astorino: That would be a violation. You would call the Building Inspector.

Vicky Brachfeld: I will do that.

Roy Brachfeld: The existing agreement doesn't have any merit based now on the new agreement that would get written. Is that true? What about the existing?

Mr. Astorino: You are going to add to it.

Roy Brachfeld: I am not so concerned with the plowing. I am more concerned with if the road gets destroyed.

Mr. Astorino: John, make sure there is a clause in the Maintenance Agreement that states if the road gets damaged or destroyed, it would need to be maintained after 2 or 3 years of potholes. A contractor would have to be called to bring asphalt to repair it. It would have to be done correctly. It shouldn't just be on just one person or two people to do it.

Vicky Brachfeld: The new house that just went in, I don't know what that is a part of?

Mr. Astorino: It is part of the Colburn/Kennedy subdivision. They should be part of the Maintenance Agreement.

Roy Brachfeld: We have an easement. We don't have a Maintenance Agreement.

Mr. Astorino: Go to the Planning Department. There was a Maintenance Agreement drawn up for the Colburn/Kennedy subdivision. I know it went through this Board.

Mr. Bollenbach: Yes.

Amy Sibilla: They are not part of that. They are located above the Colburn subdivision.

Mr. Astorino: Ok. I didn't know that.

Vicky Brachfeld: Does everybody have different rules?

Amy Sibilla: Right now, there has never been a Maintenance Agreement on the driveway that we own. We were told that the Colburn's had to make one for the bottom half. There is one for the bottom half. I think it is crazy that we need one from the top to the bottom. We never needed it before in the past. These folks just moved in. They have been there for one winter.

Mr. Astorino: Mrs. Sibilla, this is what we could do. This is actually perfect. We are going to require a Maintenance Agreement from Amity Road to the top of the road. How about we do that?

Amy Sibilla: That would be perfect.

Vicky Brachfeld: We already have one. It came with our house.

Amy Sibilla: I love that idea. Could you tell me if it would be called a private road?

Mr. Astorino: We have a Planning Board Attorney. I think we could make some type of language that says 800 feet up it is a private road with a Maintenance Use Agreement with a common driveway to this point. It could be something to that effect. Our Attorney could work on that.

Amy Sibilla: What is the advantage? Why would it be called one thing?

Mr. Astorino: It is not. It is a private road 800 feet up that serves a certain number of units. Yours is serving a smaller number of units. That makes it a common driveway.

Mr. McConnell: We could call yours as part of a private road. Then you would be responsible for the road.

Vicky Brachfeld: Then the road would have to be wider.

Amy Sibilla: Who decides what is allowed on a private road? Could a commercial business use that driveway?

Mr. Astorino: If it is made to the specifications of a private road. I don't know how you could stop that? That would be up to you guys. I believe in the Code it allows for home occupations. A pickup truck could be a commercial vehicle.

Amy Sibilla: I am talking about a commercial business. I am concerned about the barn with 12 to 20 cars in the parking lot and horse trailers going in and out of Skysail Lane.

Mr. Astorino: This is not a debate. John, let's make sure we get a Maintenance Agreement from Amity Road all the way to the top. Whoever wants to get people to sign off on it, you would figure out how you and your neighbors want to deal with plowing and maintenance. I think you should all sit down together and talk about how you would want it done regarding maintenance and repairs.

Roy Brachfeld: How do we make somebody agree to that?

Mr. Astorino: It would be in the deed.

Mr. Bollenbach: We just did this with a subdivision on Entin Terrace. It is a private road. Then Sapanaro had done a 4-lot subdivision off the end of that. It was a Maintenance Agreement that incorporated the entirety.

Mr. Astorino: Everyone in the Colburn-Kennedy subdivision had a Maintenance Agreement.

Mr. McConnell: One thing you want to consider when you are putting together the Maintenance Agreement, you would want to make a wish list. One thing you should certainly put on there is what it would take to agree to repairing the road, improving the road, etc...

Mr. Astorino: It should be a consensus of the property owners.

Roy Brachfeld: Who is responsible to write up the Maintenance Agreement?

Mr. Astorino: The Sibilla's would have their Attorney write up the document. Our Attorney would review it. Do you have any other concerns?

Roy Brachfeld: No. You have addressed many of my concerns. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Sibilla subdivision?

Amy Sibilla: By widening the driveway from 16' to 18' with the additional shoulder. We passed on the driveway at 16' with 2 cars.

Mr. Astorino: When we walked up there, it gives you a foot on each side. It gives you that extra little bit. It is not paved. You would put some Item #4 there. If someone's wheel goes off, they won't go into a ditch. It would hold.

Amy Sibilla: Ok. That is fine.

Mr. Astorino: Is there anyone else wishing to address the Sibilla subdivision? Let the record show no further public comment. To the residents, this public hearing will be adjourned without date. It will be re-noticed. You will be re-noticed.

Mr. Showalter makes a motion to adjourn the Sibilla Subdivision Public Hearing without date.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays.

Review of Submitted Maps:***Saufroy Family Irrev. Living Trust & Maureen Cozad***

Application for Sketch Plat Review of a proposed 3-Lot (MAJOR) subdivision, situated on tax parcel S 31 B 2 L 20.21; parcel located on the northern side of Denton Lane 1800 feet east of Ackerman Road (25 Denton La.), in the RU zone, of the Town of Warwick. Continued from the 6/16/21 Planning Board Meeting.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying. Steve Saufroy, 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 – 06/17/21 advisory comments for Indiana Bat, lot design-steep slopes, erosion control, and shared drive agreement TW Building Department – 06/01/21 open permit for fence (19967), open permit for windows (27369), and need to confirm number of bedrooms
6. ZBA: all lots require a 280(a) for access from a non-public road, lot area, and lot width. 08/23/21 all variances granted
7. NYS Office of Parks, Recreation, and Historic Preservation letter must be submitted. 05/11/21
8. Planning Board to determine if a site inspection is necessary (perhaps after ZBA decision). Site inspection was held on October 19, 2021.
9. Soil tests for the proposed septic systems must be witnessed by the Planning Board Engineer.
10. Sheet 1 Note 14 state appears to have transposed which lot has the existing well. Please revise accordingly.
11. On Sheet C-3, the limits of disturbance should be adjusted to include the concrete washout area on Lot 1. The proposed staging area for Lot 1 is on a fairly steep slope and seems impractical for such purposes. Please consider an alternate location. SWPPP indicates that no concrete trucks will be allowed to washout or discharge surplus concrete or wash water on-site. Applicant to clarify whether concrete trucks will be allowed to washout on site or not.
12. Provide a soil restoration plan in accordance with the GP-0-20-001 and the NYSDEC Standards & Specifications for Erosion and Sediment Control, latest edition. Refer to the NYS Stormwater Management Design Manual, table 5.3, for specific requirements associated with soil restoration for areas with HSG D soils.
13. Applicant to provide Notice of Intent (NOI) for review.
14. The callout leaders on the Driveway Pavement Section detail do not align with the text on sheet C-4. Applicant to revise and clarify.
15. Sheet C-5 does not include soil testing results. Applicant to provide these results or revise the title of the sheet for clarity.
16. Applicant to determine if house will be 25' tall or line of sight drawings will be prepared. If house will remain at 25' tall, the bulk table must be updated.

17. It must be confirmed that the private road agreement can be expanded to service two additional homes.
18. A shared driveway agreement for all existing lots and the proposed new lots must be prepared and submitted.
19. 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 12
20. Surveyor to certify that iron rods have been set at all property corners.
21. In the standard biodiversity notes, applicant to clarify that “mature” trees are trees that are 5” in diameter at breast height.
22. The liber and page for the Agricultural and Ridgeline notes, as well as the Shared Driveway Agreement must be added to the plan.
23. Payment in lieu of parkland for two lot per Town of Warwick Town Code §75-3.A.(2)(a)[3].
24. Payment of all fees.

The following comment submitted by the Conservation Board:

Saufroy Family Irrev. Living Trust & Maureen Cozad – None submitted.

The following comment submitted by the ARB:

Saufroy Family Irrev. Living Trust & Maureen Cozad – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant submitted a short EAF. It is an Unlisted Action. The only other Involved Agency was the ZBA. The ZBA had made their own determination as far a SEQRA was concerned. I have prepared a draft Resolution for Lead Agency for the Planning Board’s consideration. The Planning Board could declare itself Lead Agency. That would start the SEQRA process.

Mr. McConnell makes a motion for Lead Agency.

Seconded by Mr. Kennedy. The following Resolution was carried 5-Ayes and 0-Nays.

617.6

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Saufroy Subdivision

Whereas, the Town of Warwick Planning Board is in receipt of an application for Subdivision approval of a 10.9 ± acre parcel of land located at 25 Denton Lane, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 5/12/21 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 an Unlisted Action, and

Whereas, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed with the owner(s) of farm operations identified in the Statement and the Planning Board must evaluate and consider the Statement to determine possible impacts the proposed project may have on the functioning of farm operations within the agricultural district, and

Whereas, after examining the EAF, the Planning Board has determined that there are other involved and/or federal agencies on this matter including the Town Zoning Board of Appeals, which will make its own SEQR determination.

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Comment #2: Applicant to discuss project.

Dave Getz: This application is for a proposed 3-lot subdivision that is located just a little under 11 acres. The Applicant and Owner lives in the existing dwelling that is shown on proposed Lot #2. Yesterday, we had done a site visit with the Planning Board to show how the existing driveway to his house would become a shared driveway with a new home on Lot #1. A new driveway would be constructed off Denton Lane to serve proposed Lot #3, which is located in its own field up in the back.

Mr. Astorino: We did have a site visit yesterday with the Board. Do any Board members or Professionals have any comments or concerns? Dave, are there any comments tonight that you would like to go over?

Dave Getz: No. We ask the Board if you could set this application for a public hearing?

Mr. Astorino: We will list Comment #3 through Comment #4 for the record.

Mr. Kennedy makes a motion to Set the Saufroy-Cozad Subdivision application for a Preliminary Public Hearing at the next available agenda.

Seconded by Mr. McConnell. Motion carried; 5-Ayes and 0-Nays.

Dave Getz: Thank you.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 06/17/21 advisory comments for Indiana Bat, lot design-steep slopes, erosion control, and shared drive agreement TW Building Department – 06/01/21 open permit for fence (19967), open permit for windows (27369), and need to confirm number of bedrooms

Comment #6: ZBA: all lots require a 280(a) for access from a non-public road, lot area, and lot width. 08/23/21 all variances granted

Comment #7: NYS Office of Parks, Recreation, and Historic Preservation letter must be submitted. 05/11/21

Comment #8: Planning Board to determine if a site inspection is necessary (perhaps after ZBA decision). Site inspection was held on October 19, 2021.

Comment #9: Soil tests for the proposed septic systems must be witnessed by the Planning Board Engineer.

Comment #10: Sheet 1 Note 14 state appears to have transposed which lot has the existing well. Please revise accordingly.

Comment #11: On Sheet C-3, the limits of disturbance should be adjusted to include the concrete washout area on Lot 1. The proposed staging area for Lot 1 is on a fairly steep slope and seems impractical for such purposes. Please consider an alternate location. SWPPP indicates that no concrete trucks will be allowed to washout or discharge surplus concrete or wash water on-site. Applicant to clarify whether concrete trucks will be allowed to washout on site or not.

Comment #12: Provide a soil restoration plan in accordance with the GP-0-20-001 and the NYSDEC Standards & Specifications for Erosion and Sediment Control, latest edition.

Refer to the NYS Stormwater Management Design Manual, table 5.3, for specific requirements associated with soil restoration for areas with HSG D soils.

Comment #13: Applicant to provide Notice of Intent (NOI) for review.

Comment #14: The callout leaders on the Driveway Pavement Section detail do not align with the text on sheet C-4. Applicant to revise and clarify.

Comment #15: Sheet C-5 does not include soil testing results. Applicant to provide these results or revise the title of the sheet for clarity.

Comment #16: Applicant to determine if house will be 25' tall or line of sight drawings will be prepared. If house will remain at 25' tall, the bulk table must be updated.

Comment #17: It must be confirmed that the private road agreement can be expanded to service two additional homes.

Comment #18: A shared driveway agreement for all existing lots and the proposed new lots must be prepared and submitted.

Comment #19: 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 12

Comment #20: Surveyor to certify that iron rods have been set at all property corners.

Comment #21: In the standard biodiversity notes, applicant to clarify that “mature” trees are trees that are 5” in diameter at breast height.

Comment #22: The liber and page for the Agricultural and Ridgeline notes, as well as the Shared Driveway Agreement must be added to the plan.

Comment #23: Payment in lieu of parkland for two lot per Town of Warwick Town Code §75-3.A.(2)(a)[3].

Comment #24: Payment of all fees.

Boernstein Fam. Trust Site Plan & Special Use Permit

Application for Site Plan Approval and Special Use Permit for the construction and use of an existing dwelling to be a two-family residential dwelling, situated on tax parcel S 27 B 2 L 40; project located on the eastern side of Blooms Corners Road 600 feet south of C.R. 1A (7 Blooms Corners Rd.), in the RU zone, of the Town of Warwick.

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

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 – 10/08/21 no advisory comments
6. TW Building Department – 10/14/21 open permit for #5042 for conversion of barn to a one-family; approvals needed for two-family residence.
7. Applicant to clarify the easement(s) shown on drawing (per filed map #9280).
8. Applicant to confirm adequacy of existing well to serve five bedrooms.
9. Service capacity letters will need to be mailed.
10. The survey data from John McGloin’s June 29, 2021 survey should be used and the surveyor seal should be included.
11. There appears to be an USACE wetland partial delineation on the drawing. The date and entity who delineated it should be shown on the drawing.
12. The street rights-of-way must be shown within 200-ft of the property boundaries, including name, location, width, and speed limit.
13. The sight distance for both driveway entrances must be shown.
14. A note must be added to the plan stating the procedure if the existing septic system is encountered during the installation of the new system.
15. Stormwater plan must be in compliance with Town of Warwick §164-41.10 Stormwater Management and NYSDEC requirements.
16. 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.”
17. Surveyor to certify that iron rods have been set at all property corners.
18. The liber and page for the Agricultural Notes and sight distance triangles, if necessary, must be added to the plan.
19. Payment of all fees.

The following comment submitted by the Conservation Board:

Boernstein Fam. Trust Site Plan & Special Use Permit – None submitted.

The following comment submitted by the ARB:

Boernstein Fam. Trust Site Plan & Special Use Permit – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has submitted a short EAF. It is an Unlisted Action under SEQRA. There are no other Agencies involved. I have prepared a draft Lead Agency for the Planning Board's consideration. The Planning Board could declare itself Lead Agency.

Mr. McConnell makes a motion for Lead Agency.

Seconded by Mr. Kennedy. The following Resolution was carried 5-Ayes and 0-Nays.

617.6

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: 7 Blooms Corners One-family to Two-family Conversion

Whereas, the Town of Warwick Planning Board is in receipt of applications for Site Plan and Special Use Permit approval of a 12.285 ± acre parcel of land located at 7 Blooms Corners Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 9/29/21 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 an Unlisted Action, and

Whereas, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed with the owner(s) of farm operations identified in the Statement and the Planning Board must evaluate and consider the Statement to determine possible impacts the proposed project may have on the functioning of farm operations within the agricultural district 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 itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Comment #2: Applicant to discuss project.

Dan Getz: This application is for the conversion from 1-Family Dwelling to 2-Family Dwelling. It was a converted barn. Back in the 1980's permits were pulled to build a septic system for 3-bedrooms and converted into 1-Family Dwelling. At some point over the years, it became a 5-bedroom 2-Family Dwelling. There are 2 driveways existing. One driveway is marked as 7 Blooms Corners Road. The other driveway is marked as 9 Blooms Corners Road. Under the Town's records, it was not marked as a 2-Family Dwelling officially yet. That is why we are in front of the Planning Board. The RU zone allows the conversion from a 1-Family Dwelling to 2-Family Dwelling. The Code required at least 3,000 s.f. of livable floor area. This structure has 5,000 s.f. of livable floor area. I believe it meets all of the Code requirements for that conversion. We have designed a new septic system to handle 5 bedrooms. We would abandon the old septic system. The new septic system is designed to all of the State and County standards. There are wetlands on the property. Most of them that would be relevant to this project were delineated. We would be staying away from those wetlands with the new septic system. The only disturbance on the site is for the new septic. There are no new buildings proposed.

Mr. McConnell: What is the distance between the wetlands and the new septic system?

Mr. Fink: The distance is approximately 160 feet.

Dan Getz: It is 160 feet to one corner of the wetlands. There is a pond that is a little closer. It is definitely over 100 feet to any wetlands, ponds and streams on the property.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 10/08/21 no advisory comments

Comment #6: TW Building Department – 10/14/21 open permit for #5042 for conversion of barn to a one-family; approvals needed for two-family residence.

Comment #7: Applicant to clarify the easement(s) shown on drawing (per filed map #9280).

Dan Getz: Yes. Those easements were on a previous subdivision. This property was merged at some point from two properties that were from two different subdivisions. The large pond was created as part of the subdivision. An easement is around it for access by the Fire Department and also for stormwater purposes for this other subdivision that it is adjacent to.

Comment #8: Applicant to confirm adequacy of existing well to serve five bedrooms.

Dan Getz: Will do.

Comment #9: Service capacity letters will need to be mailed.

Dan Getz: Those letters were mailed out.

Comment #10: The survey data from John McGloin's June 29, 2021 survey should be used and the surveyor seal should be included.

Dan Getz: Will do.

Comment #11: There appears to be an USACE wetland partial delineation on the drawing. The date and entity who delineated it should be shown on the drawing.

Dan Getz: Will do. ERS Consultants delineated that.

Comment #12: The street rights-of-way must be shown within 200-ft of the property boundaries, including name, location, width, and speed limit.

Dan Getz: Ok.

Comment #13: The sight distance for both driveway entrances must be shown.

Dan Getz: Right. We will measure that.

Comment #14: A note must be added to the plan stating the procedure if the existing septic system is encountered during the installation of the new system.

Dan Getz: Ok.

Comment #15: Stormwater plan must be in compliance with Town of Warwick §164-41.10 Stormwater Management and NYSDEC requirements.

Dan Getz: Yes. No problema.

Comment #16: 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."

Dan Getz: Ok.

Comment #17: Surveyor to certify that iron rods have been set at all property corners.

Dan Getz: Yes. Will do.

Comment #18: The liber and page for the Agricultural Notes and sight distance triangles, if necessary, must be added to the plan.

Dan Getz: Ok.

Comment #19: Payment of all fees.

Dan Getz: Right.

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

Dan Getz: We ask the Board to waive the public hearing on this application.

Mr. Bollenbach: It requires a public hearing. It is for site plan and special use permit.

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

Mr. Showalter makes a motion to set the Boernstein 7-Blooms Corners Road Site Plan & Special Use Permit application for a Public Hearing at the next available agenda.

Seconded by Mr. McConnell. Motion carried; 5-Ayes and 0-Nays.

Dan Getz: Thank you.

Jolly Onion Site Plan & Special Use Permit

Application for Site Plan Approval and Special Use Permit for the construction and use of apartments and a food retail market in the existing building to consist of a mixed use of Two 1-Bedroom Apartments located on the upper level of existing building and a 1,500 s.f. retail food market with café/deli service located on the lower level of existing building, situated on tax parcel S 12 B 2 L 12.21; project located on the southern side of C.R. 1 and the western side of Glenwood Road (625 Glenwood Rd.), in the LB zone, of the Town of Warwick.

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

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. TW Building Department – 10/14/21 Certificate of Occupancy required for #29824 for esthetician.
6. OC Planning Department – 10/08/21 no advisory comments
7. OCDPW – pending submittal
8. OCDOH – Septic system accepted 04/27/18.
9. Service capacity letters are required to be submitted.
10. The most recent survey from Daniel O’Brien must be used as part of this application, including his signature and seal on the drawing.
11. All existing and proposed signage must be shown on the plan. This includes depicting the location and related signage for any handicapped accessible parking spaces. Based on the total number of 109 spaces there should be at least 5 ADA compliant spaces per NYS Building Code.
12. The hours of operation should be shown on the plans.
13. Please add the Town of Warwick standard note for signage §164-43.1.
14. Applicant to confirm the location(s) of water entering the building.
15. Applicant to clarify that the beauty parlor use is without a hair care sink.
16. Applicant to confirm that all water-saving devices have been installed at the property.
17. Applicant to confirm proper function and maintenance of the septic system. Including the maintenance schedule as it relates to checking and servicing the 1000-gallon grease trap.
18. There are four separate septic systems located on the property; applicant to confirm that the wastewater flow is being directed to a system that can manage that flow.
19. The 911 addresses must be shown on the plan. Please confirm with 911 coordinator how many 911 addresses would be required.
20. Applicant to confirm if a second dumpster would be required; please include location and proper screening.
21. Applicant to confirm compliance with §164-46.J(13) Two-Story Mixed-Use Requirements.
22. §164-46.J(53) Town of Warwick Design Standards is mandatory; please show on the drawing how this project complies with these standards.
23. Sheet 1, Note 11 provides the parking calculations; Applicant to demonstrate that the 20,000-sf parking lot can provide parking for 80 vehicles, including any requirement for aiseways.

24. 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.”
25. Surveyor to certify that iron rods have been set at all property corners.
26. The liber and page for the Aquifer Notes must be added to the plan.
27. Payment of all fees.

The following comment submitted by the Conservation Board:

Jolly Onion Site Plan & Special Use Permit – None submitted.

The following comment submitted by the ARB:

Jolly Onion Site Plan & Special Use Permit – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board reviewed this application with the short EAF. There is no construction proposed. This application is classified as Type 2 Action. No SEQRA review is necessary.

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

Seconded by Mr. McConnell. The following Resolution was carried 5-Ayes and 0-Nays.

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

Name of Action: Jolly Onion Change of Use

Whereas, the Town of Warwick Planning Board is in receipt of an application for Site Plan and Special Use Permit approvals by Amity Investors LLC, Inc. for a ± 2.53 acre parcel of land located at 625 Glenwood Road, Pine Island, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 09/29/21 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 II Action that meets the thresholds found in 6 NYCRR 617.5(c)(9) and (18) and, therefore, SEQR does not apply, and

Whereas, the Planning Board has determined that the proposed project is located within an agricultural district and, therefore, the requirements of 617.6(a)(6) apply meaning that an

Agricultural Data Statement must be filed with the owner(s) of farm operations identified in the Statement and the Planning Board must evaluate and consider the Statement to determine possible impacts the proposed project may have on the functioning of farm operations within the agricultural district, and

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

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

Comment #2: Applicant to discuss project.

Dan Getz: I don't believe we have found any agricultural properties within 500 feet of this project. I don't know if that changes anything?

Mr. Astorino: Are you talking about the Jolly Onion Inn?

Dan Getz: Right. I think it is about 600 feet away.

Mr. McConnell: The sod farm is not?

Dan Getz: The Park is less than 500 feet. I think all of the agricultural ones were over 500 feet from this property. Either way, we will double check that.

Mr. Astorino: We will leave that comment here. Provide us with information. They will also need OCDPW approval.

Dan Getz: This essentially changes its use in this building. It is one building even though it looks like two buildings. It is the building that has the Jolly Onion Inn restaurant. There are not any changes proposed to the Jolly Onion restaurant. It is the other side of that building where they are proposing two apartments on the upper floor. On the lower floor they propose a retail/food market with a café and deli service. The whole property is on a septic system. The water uses that was allocated before for events in the downstairs below the restaurant are no longer proposed as event space. That would continue to be storage space for the restaurant. That extra water usage capacity in the existing septic system would be able to support the café' and deli service. The existing septic system back in the year 2018, our office received approval by the Health Department to the changes to that. As part of that, it was looked at what the capacity of that system was. For the changes of use, we looked at the requirements for water for all of those uses. It is within the capacity of the existing system. There is also a Beauty Parlor on the property. That is not proposed to be changed.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: TW Building Department – 10/14/21 Certificate of Occupancy required for #29824 for esthetician.

Comment #6: OC Planning Department – 10/08/21 no advisory comments

Comment #7: OCDPW – pending submittal

Comment #8: OCDOH – Septic system accepted 04/27/18.

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

Dan Getz: Regarding Comment #25, we ask the Board to waive the certification of iron pins.

Mr. Astorino: That makes sense. The Board could do that at the time of approval. We will list Comment #9 through Comment #27 for the record. Does the Applicant wish to be set for a public hearing?

Dan Getz: Yes.

Mr. McConnell makes a motion to Set the Jolly Onion application for a Site Plan & Special Use Permit Public Hearing at the next available agenda.

Seconded by Mr. Showalter. Motion carried; 5-Ayes and 0-Nays.

Dan Getz: Thank you.

Comment #9: Service capacity letters are required to be submitted.

Comment #10: The most recent survey from Daniel O'Brien must be used as part of this application, including his signature and seal on the drawing.

Comment #11: All existing and proposed signage must be shown on the plan. This includes depicting the location and related signage for any handicapped accessible parking spaces. Based on the total number of 109 spaces there should be at least 5 ADA compliant spaces per NYS Building Code.

Comment #12: The hours of operation should be shown on the plans.

Comment #13: Please add the Town of Warwick standard note for signage §164-43.1.

Comment #14: Applicant to confirm the location(s) of water entering the building.

Comment #15: Applicant to clarify that the beauty parlor use is without a hair care sink.

Comment #16: Applicant to confirm that all water-saving devices have been installed at the property.

Comment #17: Applicant to confirm proper function and maintenance of the septic system. Including the maintenance schedule as it relates to checking and servicing the 1000-gallon grease trap.

Comment #18: There are four separate septic systems located on the property; applicant to confirm that the wastewater flow is being directed to a system that can manage that flow.

Comment #19: The 911 addresses must be shown on the plan. Please confirm with 911 coordinator how many 911 addresses would be required.

Comment #20: Applicant to confirm if a second dumpster would be required; please include location and proper screening.

Comment #21: Applicant to confirm compliance with §164-46.J(13) Two-Story Mixed-Use Requirements.

Comment #22: §164-46.J(53) Town of Warwick Design Standards is mandatory; please show on the drawing how this project complies with these standards.

Comment #23: Sheet 1, Note 11 provides the parking calculations; Applicant to demonstrate that the 20,000-sf parking lot can provide parking for 80 vehicles, including any requirement for aisleways.

Comment #24: 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 #25: Surveyor to certify that iron rods have been set at all property corners.

Comment #26: The liber and page for the Aquifer Notes must be added to the plan.

Comment #27: Payment of all fees.

Brady Subdivision “Amended Final Approval, Lot #2

Application for Amended Final Approval for 1-Lot in the Brady Subdivision, Lot 2, situated on tax parcel S 64 B 1 L 54.2; parcel located on the northern side of Tower Lane 600 feet east of Brady Road (181 Tower La.), in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the Applicant: Dave Getz from Engineering Properties and Surveying.

Dave Getz: We are moving the house down lower.

Mr. Astorino: They are looking to move the proposed house lower. This is standard practice. They had to come before use because they are in the RL-O. We have done this before. They are going down lower. It would be less of an impact.

Dave Getz: Right.

Mr. Showalter makes a motion on the Brady Subdivision granting Final Approval for 1-Lot in the Brady Subdivision, Lot #2, situated on tax parcel S 64 B 1 L 54.2; parcel located on the northern side of Tower Lane 600 feet east of Brady Road (181 Tower La.), in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays.

Dave Getz: Thank you.

Other Considerations:

1. **Ball Farm Estate/Philip O'Callaghan Lot Line Change** – Received letter from Michael Popoloski, PLS., addressed to the Planning Board, dated 10/14/21 in regards to the Ball Farm Lot Line Change – requesting 6-Month Extension on conditional Final approval for a proposed Lot Line Change, situated on tax parcels SBL #53-1-37 & 38; parcels located on the northern side of Ball Road 1400± feet east of Brady Road, in the SL zone, of the Town of Warwick. Conditional Final Approval was granted on 5/19/21. *The Applicant has stated that the 6-Month Extension is needed due to ongoing legal issues related to the property.* The 6-Month Extension becomes effective on 11/19/21.

Mr. McConnell: What was the condition to the Final Approval?

Laura Barca: Are you asking what the conditions were to the Final Approval?

Mr. McConnell: Yes.

Laura Barca: Connie, do you have that attached?

Connie Sardo: No. They are just asking for a 6-Month Extension on Final Approval. They were granted conditional Final Approval on 5/19/21. This is their 1st extension. When or if they need to go for Re-Approval of Final Approval 6 months from now, then the conditions of Final Approval would be attached to their Re-Approval letter.

Mr. McConnell: What is it that they are having trouble meeting?

Connie Sardo: John, please could you explain the Ball Farm approval? You have been working on that regarding the legal stuff.

Mr. Bollenbach: The project is in an estate. They are trying to settle the terms of the will. There has to be declarations that need to be recorded. The lot lines also had to be recorded. It is still in dispute in the Surrogate Court.

Mr. McConnell: Ok. Thank you.

Mr. Astorino: The matter is in their hands.

Mr. McConnell makes a motion on the Ball Farm Estate granting a 6-Month Extension on conditional Final Approval for a proposed Lot Line Change, situated on tax parcels S 53 B 1 L 37 & L 38; parcels located on the northern side of Ball Road 1400± feet east of Brady Road, in the SL zone, of the Town of Warwick. Conditional Final Approval was granted on 5/19/21.

The 6-Month Extension becomes effective on 11/19/21.

Seconded by Mr. Showalter. Motion carried; 5-Ayes and 0-Nays.

2. **American Fruits Lot Line Change** – Received Letter from Robert McManus, Esq., addressed to the PB, dated 10/14/21 in regards to Lot Line Change – requesting 6-Month Extension on conditional Final Approval for a proposed Lot Line Change, situated on tax parcels SBL #10-1-23 & 28.2; parcels located at 371 & 385 Glenwood Rd.), in the AI zone, of the Town of Warwick. Conditional Final Approval was granted on 4/21/21. *Applicant has stated they are having difficulties recording the Legal documents with the O.C. Clerk.* The 6-Month Extension becomes effective on 10/21/21.

Mr. Astorino: I do agree with that. I have heard that there has been numerous issues up at the County with this stuff.

Mr. Bollenbach: It is not just the recording of the declaration. There was also a gore on the property. There were additional documents that had to be recorded regarding the discrepancy.

Mr. McConnell: In the letter from the Attorney, he states that the filings has been rejected 6 times.

Mr. Bollenbach: I don't know about that.

Mr. McConnell: Does that strike you a little unusual?

Mr. Bollenbach: Yes.

Mr. Showalter makes a motion on the American Fruits lot line change application, granting a 6-Month Extension on conditional Final Approval of a proposed Lot Line Change, situated on tax parcels S 10 B 1 L 23 and L 28.2; parcels located at 371 & 385 Glenwood Road, in the AI zone, of the Town of Warwick. Conditional Final Approval was granted on 4/21/21.

The 6-Month Extension becomes effective on 10/21/21.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays.

3. Planning Board to discuss NYSDEC Stormwater Regulations and the Town of Warwick Aquifer Protection Overlay note.

Mr. Astorino: Laura, John, Ted and I had a nice discussion about this regarding the prison property a while back with the stormwater when Green Thumbs was changing something down there with infiltration. Laura, our Engineer had brought it up to us. There were some discrepancies.

Laura Barca: They required a waiver.

Mr. Astorino: Right. They were asking the Board for a waiver. In retrospect, it was the right thing to do. We were looking into our Code. It was a little ambiguous on how it was read. We are working on changing the language of it in the Code so that it would read more clearer and would make more sense with everybody that is involved.

Laura Barca: What the Code says right now is that it's prohibited to put drainage stormwater into a basin to have it recharge the Aquifer unless you could guarantee that it would not contaminate the Aquifer. That is pretty difficult to do. The amended language would say something to the effect that it would only be allowed the drainage stormwater to be discharged if it was designed in accordance with the NYS stormwater requirements.

Mr. Astorino: That would make sense. We will get the different language out to the Board so that everyone is on the same page. There is discussion about it. It did not go unheard. It makes sense after our meeting to have a discussion about this and to change that.

Mr. McConnell: Would it still conform with the NYSDEC Regulations?

Mr. Astorino: Yes. It has to.

Laura Barca: Correct.

Mr. McConnell: Could we get a memo on that?

Mr. Astorino: We will be working on that. We will get it to you.

Mr. McConnell: John, could you write me a memo about that?

Mr. Bollenbach: That is an engineering type of thing.

Laura Barca: I will work on that.

Mr. Astorino: We will get a memo out to the Board.

Mr. Bollenbach: It specifically references the NYS DEC specification so that you have some articulated criteria so that you could evaluate the application.

Mr. McConnell: Ok. Thank you.

4. Planning Board Minutes of 9/15/21 for PB Approval.

Mr. McConnell makes a motion to approve the PB Minutes of 9/15/21.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays.

5. Planning Board to discuss canceling 10/25/21-Work Session & 11/3/21-PB Meeting.

Mr. Showalter makes a motion to cancel the 10/25/21-Work Session & 11/3/21-PB Meeting.

Seconded by Mr. MacDonald. Motion carried; 5-Ayes and 0-Nays.

Correspondences:

1. Email letter from Ashley Torre, Esq., dated 10/18/21 addressed to the Planning Board in regards to the Snufftown Farm Market.
2. Emails from Elizabeth Korchin, dated 10/20/21 addressed to the Planning Board regarding the Sibilla Subdivision.
3. Emails from Vicky Brachfeld, dated 10/20/21 addressed to the Planning Board regarding the Sibilla Subdivision.

Mr. Astorino: We will list those email correspondences for the record. The Board and its Professionals have those emails.

Privilege Of The Floor For Agenda Items!!

Mr. Astorino: If there is anyone in the audience wishing to address Privilege of the Floor for any agenda items, please rise and state your name for the record.

Ashley Torre: I am the Attorney from Burke, Miele, Golden & Naughton, LLP. I represent Charles Mund. I thought the Snufftown Farm Market Brewery was going to be on tonight for discussion of a public hearing.

Mr. Astorino: Nope.

Ashley Torre: That was changed. Do you post the agendas online? I had an agenda that was posted online.

Connie Sardo: The "Tentative" Planning Board Agenda was posted on the Town's website.

Ashley Torre: Ok. Should I reach out?

Connie Sardo: When a Tentative Agenda is posted, between the time it was posted up unto the night of the Planning Board meeting, anything on it could change. That is why the agenda that is posted on the Town's website is called "Tentative".

Mr. Astorino: The Planning Board decided to take it off the agenda. Just like what Connie had said, it is just a draft Tentative Agenda. There would be no action tonight on the Snufftown Farm Market.

Ashley Torre: Ok. I did not know.

Connie Sardo: On a night of a Planning Board meeting, you could call the Planning office up until 4:00p.m. to find out if anything changed on an agenda. The Town Hall closes at 4pm.

Ashley Torre: Ok. Thank you.

Mr. Astorino: Is there anyone else in the audience wishing to address any of the agenda items? Let the record show no further public comment.

Mr. McConnell makes a motion to adjourn the October 20, 2021 Planning Board Meeting.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays.

Mr. Astorino: I would like to call an Executive Session with the Planning Board. There will be no action taken in the Executive Session.