

TOWN OF WARWICK PLANNING BOARD
July 20, 2022

Members present: Roger Showalter, Vice-Chairman
Dennis McConnell, Bo Kennedy,
John MacDonald, Rich Purcell, 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, July 20, 2022 at the Town Hall, 132 Kings Highway, Warwick, New York. Vice-Chairman, Roger Showalter called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING Of Hassan & Virginia Abubakr

Application for Site Plan Approval for the construction and use of renovations of an existing 3-Bedroom Dwelling located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 73 B 9 L 5; property located on the eastern side of Lodge Drive 215± feet south of Jersey Ave (2 Lodge Drive), in the SM zone, of the Town of Warwick, County of Orange, State of New York.

Representing the Applicant: Brian Friedler from Engineering Properties & Surveying.

Connie Sardo: Mr. Vice-Chairman, we have received the certified mailings for the Abubakr public hearing.

Mr. Showalter: Thank you.

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 – no comments received
6. TW Building Department – 05/31/22 need septic pump-out receipt submitted to Building Department
7. Application Form must be signed by both owners, as listed on the deed.
8. The construction and limits of disturbance must be contained on the Applicant's property.
9. Environmental information to be reviewed to confirm if any biodiversity notes are required for this project.

10. The surveyor must sign and seal the plans.
11. 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, note 7
12. Surveyor to certify that iron rods have been set at all property corners.
13. Applicant to clarify if a private road agreement is in place for Lodge Drive. Similarly, any agreement for a shared driveway with the neighboring lot (N/F Girvan) should be submitted.
14. A performance bond for Lodge Drive and landscaping bond, if applicable, shall be provided. Recommend that Applicant take photographs before and after construction to show the condition of the road before and after construction.
15. Payment of all fees

The following comment submitted by the Conservation Board:

Hassan & Virginia Abubakr – None submitted.

The following comment submitted by the ARB:

Hassan & Virginia Abubakr – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has classified this as a Type 2 Action under SEQRA. That means no environmental review is necessary under SEQRA. The Planning Board adopted the Type 2 Action on 6/15/22. SEQRA has been complied with.

Comment #2: Applicant to discuss project.

Brian Friedler: The Applicant is looking to renovate an existing 3-bedroom dwelling located at 2 Lodge Drive. He is before the Planning Board because it is located within “A Designated Protection Area” of Greenwood Lake. He proposes to go up about a story almost level to the existing house. It is just a simple renovation being done.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – no comments received

Comment #6: TW Building Department – 05/31/22 need septic pump-out receipt submitted to Building Department

Brian Friedler: Ok.

Comment #7: Application Form must be signed by both owners, as listed on the deed.

Connie Sardo: We received that today.

Comment #8: The construction and limits of disturbance must be contained on the Applicant's property.

Brian Friedler: Ok.

Comment #9: Environmental information to be reviewed to confirm if any biodiversity notes are required for this project.

Mr. Fink: The NYS Environmental Resource Mapper did pick up the Northern Long-Eared bats and rattlesnakes in this area. We had a similar situation with both of those species a couple of years ago on the Brunjes application. There were notes placed on the plans for those two species. John, do you remember that?

Mr. Bollenbach: Yes. There was ground disturbance on that particular application. There would be no ground disturbance on this application. The Brunjes application was different. It would not be applicable on this one. The Brunjes application was different. There was construction and land disturbance proposed. There is no ground disturbance proposed on this application. That would not be applicable to this application. We could strike Comment #9.

Mr. McConnell: John, do they propose to trim any of the trees or anything like that? That would have an effect on bats not rattlesnakes.

Brian Friedler: I don't think there are any trees there. It is uphill.

Mr. Showalter: I agree. There are no trees.

Brian Friedler: There are trees uphill. They are not around this house.

Mr. McConnell: Ok.

Mr. Bollenbach: We can strike Comment #9.

Comment #10: The surveyor must sign and seal the plans.

Comment #10: Brian Friedler: Ok.

Comment #11: 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, note 7

Brian Friedler: Ok.

Comment #12: Surveyor to certify that iron rods have been set at all property corners.

Brian Friedler: Ok.

Comment #13: Applicant to clarify if a private road agreement is in place for Lodge Drive. Similarly, any agreement for a shared driveway with the neighboring lot (N/F Girvan) should be submitted.

Brian Friedler: There is no road agreement.

Mr. Bollenbach: There is a road agreement for Lodge Drive. You will need to provide that.

Brian Friedler: Ok.

Comment #14: A performance bond for Lodge Drive and landscaping bond, if applicable, shall be provided. Recommend that Applicant take photographs before and after construction to show the condition of the road before and after construction.

Brian Friedler: Ok. There would be no landscaping.

Laura Barca: Right. John, could we strike the landscaping bond portion of it?

Mr. Bollenbach: Yes. We could strike the landscaping bond portion of it.

Mr. Showalter: Ok. It would just be a performance bond for Lodge Drive. Just take out the landscaping portion of it.

Laura Barca: Right.

Comment #15: Payment of all fees

Brian Friedler: Ok.

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

Mr. McConnell: I have a question for John. Regarding Comment #11, this is our standard map note. I am wondering if we were in a situation with people occupying a house presently whether putting in there or proposed use doesn't seem out of place. It would seem to suggest that they could not continue to use it the way they have been using it. How do you read that comment? Am I just wrong?

Mr. Bollenbach: It is the construction of the proposed addition. It is not for the existing structure.

Mr. McConnell: Ok. If that was included in the comment, then I would better understand it.

Mr. Showalter: Dennis, do you want to include that?

Mr. McConnell: I would suggest it. I think it is unclear. The clearer it is the better off everyone would be.

Mr. Bollenbach: We will clarify.

Mr. Showalter: The Attorney will clarify that. This is a public hearing. If there is anyone in the audience wishing to address the Abubakr application, please rise and state your name for the record.

Robert Jones: We live at 3 Lodge Drive. We have known the Abubakr's since the year 2001. We only see improvements being done to the area. They are wonderful people. We have no objections to this. We welcome them.

Mr. Showalter: Thank you. Is there anyone else wishing to address the Abubakr application? Let the record show no further public comment.

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

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

Mr. Showalter makes a motion on the Hassan & Virginia Abubakr, granting conditional Site Plan Approval for the construction and use of renovations of an existing 3-Bedroom Dwelling located with "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 73 B 9 L 5; property located on the eastern side of Lodge Drive 215± feet south of Jersey Avenue (2 Lodge Drive), in the SM zone, of the Town of Warwick, County of Orange, State of New York. A SEQRA Type 2 Action was adopted on June 15, 2022. Approval is granted subject to the following conditions:

1. TW Building Department – 05/31/22 need septic pump-out receipt submitted to Building Department.
2. The construction and limits of disturbance must be contained on the Applicant's property.
3. The surveyor must sign and seal the plans.
4. 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, note 7. (Existing uses may continue).
5. Surveyor to certify that iron rods have been set at all property corners.
6. Applicant to clarify if a private road agreement is in place for Lodge Drive. Similarly, any agreement for a shared driveway with the neighboring lot (N/F Girvan) should be submitted.
7. A performance bond and inspection fee for Lodge Drive shall be provided. Recommend that Applicant take photographs before and after construction to show the condition of the road before and after construction.
8. Payment of all fees.

Brian Friedler: Thank you.

Review of Submitted Maps:***Garley 2-Lot Cluster Subdivision***

Application for Sketch Plat Review of a proposed 2-Lot (Minor) Cluster subdivision, situated on tax parcel S 47 B 1 L 59.22; parcel located on the western side of Lakes Road 680 feet north of Lotus Lane (1290 Lakes Road) in the MT/CO zones, of the Town of Warwick.

Representing the Applicant: Brian Friedler 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 – 07/07/22 should propose shared driveway, OCDPW, northern long-eared bat
6. TW Building Department – 07/13/22 OCDPW violation letter dated 07/08/22
7. Planning Board to determine a date for a site inspection.
8. The Yield Plan should indicate the status of the existing dwelling and barn on the property. Also, the location of the existing septic should be shown, if it is known.
9. The Context Plan shows the contour lines but the contour elevation numbers should be shown.
10. The Context Plan should indicate the 100-year floodplain or add a note stating that there is not one on this property.
11. The metes and bounds for all lot lines must be shown on the drawings.
12. On Sheet C-1, the total area of open space is shown; please also show this area as a percentage to demonstrate that it complies with the Code requirement.
13. The Open Space notes on Sheet C-1 indicate that the open space will be part of Lot 1, when the drawing indicates that the open space will be part of Lot 2; Applicant to clarify.
14. The driveway profile shown on Sheet C-4 appears to be incomplete, as the house location is near elevation 766. Please update the profile to show the entire length of the driveway.
15. There should be a complete detail showing how the barn access drive will be remediated, including soil restoration.
16. The stormwater management notes on Sheet C-6 should be reviewed to make sure they are applicable to this project.
17. Soil tests for the septic systems on Lot 2 must be witnessed by the Office of the Planning Board Engineer.
18. 911 addresses must be obtained from the Building Department and then shown on the plan.
19. Sheet C-4, the Grass Swale detail needs notes added: general, surface covering, maintenance.

20. 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, Map Note 10
21. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set along open space boundaries.
22. A metes and bounds description shall be provided for the proposed open space.
23. The liber and page for the Ridgeline, Aquifer Protection, Open Space, and Biodiversity Notes must be added to the plan.
24. Payment in lieu of parkland for one lot per Town of Warwick Town Code §75-3.A.(2)(a)[3].
25. Payment of all fees.

The following comment submitted by the Conservation Board:

Garley 2-Lot Cluster Subdivision – None submitted.

The following comment submitted by the ARB:

Garley 2-Lot Cluster Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This application is subject to SEQRA. It is an Unlisted Action. This application is for a proposed 2-Lot Cluster subdivision. The Planning Board could declare itself Lead Agency. I have prepared a draft Resolution for the Planning Board’s consideration.

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

Name of Action: Garley Subdivision

Whereas, the Town of Warwick Planning Board is in receipt of an application for cluster subdivision approval of a ± 17.545 acre parcel of land located at 1290 Lakes Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 6/23/22 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 not on land that includes a farm operation or is not on land within 500 feet of a farm operation within an agricultural district and, therefore, the requirements of 6 NYCRR 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 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.

Mr. Fink: It is a proposed Cluster subdivision. The Planning would schedule a site visit. There are a couple of issues. It is located within the Town's RL-O District. That would involve line-of-sight profiles from public viewing locations. That would be from Lakes Road. The property backs up to the Appalachian Trail. That is a National scenic route. It is also located within the Bio-Diversity Conservation Overlay District. Because it is proposed as a Cluster subdivision and it is only for 2 lots, that is exempt from the need of doing a Bio-Diversity assessment on the property. There is 1 lot located in the AQ-O. I would defer that to the Engineer to see if whether or not that is warranted. Typically, an Aquifer assessment would be done for multiple lots.

Laura Barca: This is for 2 lots, only one existing.

Comment #2: Applicant to discuss project.

Brian Friedler: This application is for a proposed 2-lot Cluster subdivision. It is located on approximately 17.5 acres. Lot 1 would be the existing 1-bedroom house that would be situated on approximately 1.4 acres. The remaining lands would go to Lot 2. Lot 2 would have the open space with a little over 8.8 acres. There would be a separate driveway coming off Lakes Road.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 07/07/22 should propose shared driveway, OCDPW, northern long-eared bat

Comment #6: TW Building Department – 07/13/22 OCDPW violation letter dated 07/08/22

Laura Barca: They put in a driveway without a permit.

Brian Friedler: He went there because the County told us to take away a little bit of a hill that is there to increase the sight distance. OCDPW is aware of it.

Mr. Showalter: Ok. You will need to get a sign off from OCDPW.

Comment #7: Planning Board to determine a date for a site inspection.

Mr. Showalter: A date that did come up was for 9/21/22 at 5:30 p.m. Is everyone ok with that date?

Mr. McConnell: Why September 21st?

Mr. Showalter: That would be the next available meeting to do it at. Many people are away on vacation.

Mr. McConnell: It doesn't need to be on a day of a meeting.

Mr. Showalter: I understand that. But that is the pre-determined date at this time.

Mr. McConnell: I think making the Applicant wait 2 months is not right. Why don't we discuss it at the next Work Session to see who would be available?

Connie Sardo: The next Work Session would be August 8, 2022. There are some other people that will be on vacation.

Mr. Showalter: There is only one meeting in August. The 1st meeting in September will be canceled as well due to vacations. Our next Planning Board meeting would be September 21, 2022.

Brian Friedler: We can wait until September 21st. We still need to get OCDPW approval.

Laura Barca: At that point, the Planning Board is not holding you up.

Brian Friedler: No. You are not holding us up. It is going to take us until September to get OCDPW approval.

Mr. Showalter: Ok. We will schedule the site visit for September 21, 2022 @ 5:30 p.m. We will list Comment #8 through Comment #25 for the record.

Brian Friedler: Regarding the Orange County's comment wanting a shared driveway, OCDPW said no to a shared driveway. They want them to get rid of part of that driveway because of sight distance. They want the driveway to be on the other end of the property.

Mr. Showalter: That way it would be more economical.

Brian Friedler: Right. It would be safer to.

Mr. Showalter: Ok.

Brian Friedler: Thank you.

Comment #8: The Yield Plan should indicate the status of the existing dwelling and barn on the property. Also, the location of the existing septic should be shown, if it is known.

Comment #9: The Context Plan shows the contour lines but the contour elevation numbers should be shown.

Comment #10: The Context Plan should indicate the 100-year floodplain or add a note stating that there is not one on this property.

Comment #11: The metes and bounds for all lot lines must be shown on the drawings.

Comment #12: On Sheet C-1, the total area of open space is shown; please also show this area as a percentage to demonstrate that it complies with the Code requirement.

Comment #13: The Open Space notes on Sheet C-1 indicate that the open space will be part of Lot 1, when the drawing indicates that the open space will be part of Lot 2; Applicant to clarify.

Comment #14: The driveway profile shown on Sheet C-4 appears to be incomplete, as the house location is near elevation 766. Please update the profile to show the entire length of the driveway.

Comment #15: There should be a complete detail showing how the barn access drive will be remediated, including soil restoration.

Comment #16: The stormwater management notes on Sheet C-6 should be reviewed to make sure they are applicable to this project.

Comment #17: Soil tests for the septic systems on Lot 2 must be witnessed by the Office of the Planning Board Engineer.

Comment #18: 911 addresses must be obtained from the Building Department and then shown on the plan.

Comment #19: Sheet C-4, the Grass Swale detail needs notes added: general, surface covering, maintenance.

Comment #20: 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, Map Note 10

Comment #21: Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set along open space boundaries.

Comment #22: A metes and bounds description shall be provided for the proposed open space.

Comment #23: The liber and page for the Ridgeline, Aquifer Protection, Open Space, and Biodiversity Notes must be added to the plan.

Comment #24: Payment in lieu of parkland for one lot per Town of Warwick Town Code §75-3.A.(2)(a)[3].

Comment #25: Payment of all fees.

Crabtree Living Trust Lot Line Change

Application for Sketch Plat Review and Final Approval of a proposed Lot Line Change, situated on tax parcels S 49 B 1 L 75.2 & 76; parcels located on the westerly side of Wawayanda Road at the intersection of Crabtree Lane (6 & 19 Crabtree Lane), in the MT zone, of the Town of Warwick.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying. Susan Crabtree-Graham, 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 – 07/05/22 no advisory comments
6. TW Building Department – 07/13/22 49-1-75.2-no violations; 49-1-76-open permit & to submit yearly farm worker affidavit.
7. Planning Board to determine if a site inspection is necessary.
8. Applicant is requesting a waiver for 350-ft square rule requirement (a 300-ft square rule can be accommodated).
9. Lot A is proposed to be a flag lot. Flag lots are allowed per Town Code §137-21.K(2) by waiver of the planning board; the flag pole is required to be a minimum of 50-ft wide and the proposed flag pole is 50-ft wide.
10. §164-21.K(2)(a)[2]: The depth of the flag pole strip from the roadway to the front yard line shall not be less than 200-ft. nor greater than 300-ft. Applicant proposed 565-ft.
11. §137-21.K(2)(a)[4]: A note must be added to the plan stating that the home on the property of the flag lot (49-1-75.2) must remain a single-family residence.
12. Sheet S-1, Note 7, please clarify the date of the Peter Torgersen wetland delineation.
13. 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 S-1, Note 11
14. Surveyor to certify that iron rods have been set at all property corners.
15. Surveyor to sign and seal drawing.
16. The liber and page for the Aquifer and Ridgeline notes, as well as the Shared Driveway Agreement must be added to the plan.
17. Payment of all fees.

The following comment submitted by the Conservation Board:

Crabtree Living Trust Lot Line Change – None submitted.

The following comment submitted by the ARB:

Crabtree Living Trust Lot Line Change – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has submitted a short EAF. The application is for a lot line change. There is no construction proposed. It is classified as a Type 2 Action under SEQRA. No SEQRA review is necessary. I have prepared a draft Resolution for the Planning Board's consideration.

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

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

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

Name of Action: Crabtree Re-Subdivision

Whereas, the Town of Warwick Planning Board is in receipt of an application for Re-subdivision approval by Crabtree Living Trust for two parcels of land consisting in total of ±16.2 acres, located at 6 and 19 Crabtree Lane, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 6/27/22 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)(11) and, therefore, SEQR does not apply, and

Whereas, the Planning Board has determined that the proposed project is not within a New York State Agricultural District or on property with boundaries within 500 feet of a farm within an Agricultural District and, therefore, the requirements of 6 NYCRR 617.6(a)(5) do not apply, and

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

Dave Getz: The Applicant's family owns 2 Lots situated on approximately 16 acres. The property fronts on Wawayanda Road and Crabtree Lane, which is a shared driveway. There is no construction proposed. They want to rearrange the lot lines. The goal is to put 10-acres to go with the original house, barn and fields. They want to have that agricultural capability. There are 2 homes on the property now. One house is on each lot. That would still be the situation after the lot line change. The configuration of the lot lines is a little bit unusual. That is in order to keep the 10 acres for the house and barn to be on the agricultural lot. We had a site visit with Ben and Laura before we submitted to review the existing driveway on Crabtree Lane. We were all in concurrence that it was adequate for its purpose. There is no construction proposed.

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

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – 07/05/22 no advisory comments

Comment #6: TW Building Department – 07/13/22 49-1-75.2-no violations; 49-1-76-open permit & to submit yearly farm worker affidavit.

Dave Getz: We will take care of that.

Susan Crabtree-Graham: No problem.

Laura Barca: That would be handled through the Building Department.

Susan Crabtree-Graham: Ok.

Comment #7: Planning Board to determine if a site inspection is necessary.

Mr. McConnell: There is no construction proposed. I don't see what a site visit would accomplish.

Mr. Showalter: A site visit would not be necessary.

Comment #8: Applicant is requesting a waiver for 350-ft square rule requirement (a 300-ft square rule can be accommodated).

Dave Getz: Right. On the big lot, we could fit the 350-ft square rule. On the other lot, we could fit a little bit over 300-ft square. The reason for that is to keep the 10 acres over on the one side.

Comment #9: Lot A is proposed to be a flag lot. Flag lots are allowed per Town Code §137-21.K(2) by waiver of the planning board; the flag pole is required to be a minimum of 50-ft wide and the proposed flag pole is 50-ft wide.

Comment #10: §164-21.K(2)(a)[2]: The depth of the flag pole strip from the roadway to the front yard line shall not be less than 200-ft. nor greater than 300-ft. Applicant proposed 565-ft.

Comment #11: §137-21.K(2)(a)[4]: A note must be added to the plan stating that the home on the property of the flag lot (49-1-75.2) must remain a single-family residence.

Dave Getz: Will provide.

Comment #12: Sheet S-1, Note 7, please clarify the date of the Peter Torgersen wetland delineation.

Dave Getz: Will provide.

Comment #13: 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 S-1, Note 11.

Dave Getz: We have note on the plan. The use is there is no construction proposed.

Mr. Bollenbach: We can strike Comment #13. It is not applicable.

Mr. Showalter: According to the Attorney, we will strike Comment #13.

Comment #14: Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: Ok.

Comment #15: Surveyor to sign and seal drawing.

Dave Getz: Yes.

Comment #16: The liber and page for the Aquifer and Ridgeline notes, as well as the Shared Driveway Agreement must be added to the plan.

Dave Getz: Ok.

Mr. Bollenbach: Need to add to Comment #16, No further subdivision of Lot #1. There is no further subdivision of a flag lot.

Comment #17: Payment of all fees.

Dave Getz: Ok. We request from the Planning Board to waive the public hearing.

Mr. McConnell makes a motion to waive the Final Public Hearing.

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

Mr. Purcell makes a motion to Waive Comment #8, 9, and #10 for square rule and flag lot.

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

Mr. Purcell makes a motion on the Crabtree living Trust Lot Line Change application, granting conditional Final Approval of a proposed Lot Line Change, situated on tax parcels S 49 B 1 L 75.2 & 76; parcels located on the westerly side of Wawayanda Road at the intersection of Crabtree Lane (6 & 19 Crabtree Lane), in the MT zone, of the Town of Warwick, County of Orange, State of New York. A SEQRA Type 2 Action was adopted on July 20, 2022. Approval is granted subject to the following conditions:

1. TW Building Department – 07/13/22 49-1-75.2-no violations; 49-1-76-open permit & to submit yearly farm worker affidavit.
2. Applicant is requesting a waiver for 350-ft square rule requirement (a 300-ft square rule can be accommodated). (WAIVED)
3. Lot A is proposed to be a flag lot. Flag lots are allowed per Town Code §137-21.K(2) by waiver of the planning board; the flag pole is required to be a minimum of 50-ft wide and the proposed flag pole is 50-ft wide. (WAIVED)
4. §164-21.K(2)(a)[2]: The depth of the flag pole strip from the roadway to the front yard line shall not be less than 200-ft. nor greater than 300-ft. Applicant proposed 565-ft. (WAIVED)
5. §137-21.K(2)(a)[4]: A note must be added to the plan stating that the home on the property of the flag lot (49-1-75.2) must remain a single-family residence.
6. Sheet S-1, Note 7, please clarify the date of the Peter Torgersen wetland delineation.
7. Surveyor to certify that iron rods have been set at all property corners.
8. Surveyor to sign and seal drawing.
9. The liber and page for the Aquifer and Ridgeline notes, as well as the Shared Driveway Agreement must be added to the plan and No Further Subdivision of Lot 1, the flag lot.
10. Payment of all fees.

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

Dave Getz: Thank you.

Susan Crabtree-Graham: Thank you.

Nepco Enterprises (Chapter 150)

Application for Review and Approval of “Chapter 150” Site Plan Application, situated on tax parcel S 52 B 1 L 8; parcel located on the western side of Clinton Ave Extension 400 feet south of Galloway Road (6 Clinton Avenue Extension), in the SL zone, of the Town of Warwick.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying. Mike Hazard, Applicant. John Panebianco, Owner.

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 – comments pending
6. TW Building Department – comments pending
7. Planning Board to determine if a site inspection is necessary.
8. Planning Board to determine if additional landscaping is required.
9. All requirements set forth in §150-5 Permit Procedure must be satisfactorily completed.
10. The total amount of land where the topography has been changed (i.e., disturbed/filled) must be shown on the plan.
11. The plans should indicate if the natural drainage of the area has not been affected, including if adjacent property owners will be affected.
12. Applicant to clarify if the land disturbance is complete or if additional land will be disturbed/filled. If additional land will be disturbed/filled application to show on plan view and include the area of the disturbance.
13. Proper erosion and sediment control measures must be shown on the plan (and installed if construction has already started).
14. Confirm if tree protection is required. If used, include a detail must be added to the plan.
15. Clarification that all disturbed areas have been sufficiently stabilized.
16. Any required landscape plan should include planting details, such as tree planting and staking, tree protection details for trees to remain. Seed mixture information should be provided, such as type of wildflower meadow mix, installation notes, seeding rates, maintenance plan.
17. Any proposed landscaping shall include applicable notes, including three year survivability.
18. A stormwater plan in conformance with §164-47.10 Stormwater Management must be submitted.
19. Provide anticipated restoration schedule, including site grading, topsoil placement, and landscaping installation.
20. The path(s) of the vehicular traffic for the machinery or trucks involved with the land disturbance must be shown.

21. The Town of Warwick standard notes must be added to the plan.
22. Provide a map note stating that “No additional 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 11
23. The surveyor must sign and seal the plans.
24. Surveyor to certify that iron rods have been set at all property corners.
25. Applicant to post any Performance Bond or Landscaping Bond, as determined by the Planning Board.
26. Payment of all fees.

The following comment was submitted by the Conservation Board:

Nepco Enterprises (Chapter 150) – None submitted.

The following comment was submitted by the ARB:

Nepco Enterprises (Chapter 150) – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has provided us with a short EAF. It appears to be an Unlisted Action. I have prepared a draft Resolution for the Planning Board’s consideration.

Mr. Purcell makes a motion for the Unlisted Action.

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: Nepco Chapter 150 Permit

Whereas, the Town of Warwick Planning Board is in receipt of an application for approval, pursuant to Chapter 150 of the Town Code, of a ± 0.84 acre parcel of land located at 6 Clinton Avenue Extension, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 6/24/22 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 not within an agricultural district or within 500 feet of a farm operation within an agricultural district and, therefore, the requirements of 6 NYCRR 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 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.

Mr. Fink: The only primary issue that came up through the EAF is the Indiana bats. You will need to put a map note on the plan for the time of year tree restrictions for tree cutting from November 1st, through March 31st.

Comment #2: Applicant to discuss project.

Dave Getz: Mr. Panebianco has owned the property since the 1980's. It is a property located near the dead end of Clinton Avenue Extension. The driveway entrance is located right before the Parkin Plumbing property.

Mr. MacDonald: Is it 2 feet to the right of the Parkin entrance?

Dave Getz: Yes. Its boarders in back of Corwin's Florist and other properties on Galloway. Recently, the Applicant cleared the property. They removed a lot of small trees. He found out that he didn't have all of the permits in place. We are here before the Planning Board for Chapter 150. We also drew on the plans the proposed driveway, house, well & septic system. At the Work Session, it was discussed that it was inappropriate to show that. We are not sure if you want that information shown on the plans. In terms of the actual site condition, I took this photo today. The site is very level. He didn't do any regrading.

John Panebianco: There was no regrading. There was no soil taken out or brought in.

Dave Getz: There are 2 stockpiles of woodchips from the trees that were removed. He has done a good job topsoiling and seeding. There are no erosion or drainage issues.

Mr. McConnell: How many trees were removed?

Mike Hazard: I have pictures of the first couple of days that I was there. There was a lot of brush there from previous years ago. It was ugly scrub there.

John Panebianco: There were 1” to 3” trees in diameter. It was the weeds that got out of control within the last 35 years.

Mr. McConnell: I did not hear an answer to my question. How many trees were taken down?

John Panebianco: There were no trees over 5” in diameter.

Mr. Showalter: Dennis, take a look at the pictures.

John Panebianco: There were a couple of trees that had come down during storms.

Mr. McConnell: Understood. How many trees were cut down?

John Panebianco: I can't say that any trees were cut other than scrub of 3” or 4”

Mr. McConnell: A scrub tree that is 3” and was cut down counts towards my question. I just want to know how many trees were cut down?

Mike Hazard: There were 25 trees of 3” trees.

Mr. McConnell: Ok. How big is the lot?

Dave Getz: It is .84-acre.

Mr. McConnell: The property is approximately $\frac{3}{4}$ to $\frac{8}{10}$ th of an acre.

There is continuing discussion about the trees that were cut down and the brush that was removed. Mr. Hazard shows the before and after pictures of the trees and brush to Mr. McConnell. After a site visit, the Board would have more of an understanding of what was cleared on the property.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – comments pending

Comment #6: TW Building Department – comments pending

Comment #7: Planning Board to determine if a site inspection is necessary.

Mr. Showalter: Would anyone like to take a look at this place?

Mr. McConnell: Is it something we could see by pulling down Clinton Avenue Extension?

John Panebianco: Absolutely.

Mr. Showalter: Our Secretary just reminded me that we have something setup. We are looking to do a site visit on 8/17/22 @ 5:30 p.m.

Mr. McConnell: Got it.

Laura Barca: This is one of (3)-project that are here tonight for Chapter 150. We will be scheduling all (3)-Chapter 150 projects for site visits on 8/17/22 @ 5:30 p.m. The site visits will go in order as follows starting at 5:30 p.m.: 1) JUSUDA Farm, 2) Gagliardi and 3) Nepco Enterprises.

Mr. Showalter: Ok. The (3)-site visits are scheduled for 8/17/22 @ 5:30 p.m. We will start at JUSUDA Farm then continue to Gagliardi and then Nepco. We will list Comment #8 through Comment #26 for the record.

Mr. Bollenbach: Does the Applicant wish to be set for a public hearing?

Dave Getz: Yes.

Mr. Kennedy makes a motion to set the Nepco Enterprises application for a Public Hearing at the next available agenda.

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

Dave Getz: For that public hearing, would you like the plans to show what we have now with the proposed construction?

Mr. Bollenbach: You already have it on there. It would make it easier when you go to the Building Department for the house permit that has the well, septic, etc... You would be done with it. You already had done the work.

Laura Barca: John, the one thing that is different is that they are in front of the Planning Board. Does the septic soil test have to be witnessed?

Dave Getz: Not for an individual lot. We don't.

Laura Barca: It goes straight to the Building Department. There is no witnessing.

Mr. Bollenbach: Ok. That would be up to the Board's discretion.

Mr. Showalter: What would the Board like the Applicant to do for the test?

Dave Getz: We had done the soil test back in the beginning of June. We found really good soils. We have the percs and deeps results on the plans.

Mr. Bollenbach: For a single lot, it does not have to be witnessed.

Dave Getz: Correct.

Mr. Showalter: The Attorney says that. We will follow that.

Dave Getz: Thank you.

Comment #8: Planning Board to determine if additional landscaping is required.

Comment #9: All requirements set forth in §150-5 Permit Procedure must be satisfactorily completed.

Comment #10: The total amount of land where the topography has been changed (i.e., disturbed/filled) must be shown on the plan.

Comment #11: The plans should indicate if the natural drainage of the area has not been affected, including if adjacent property owners will be affected.

Comment #12: Applicant to clarify if the land disturbance is complete or if additional land will be disturbed/filled. If additional land will be disturbed/filled application to show on plan view and include the area of the disturbance.

Comment #13: Proper erosion and sediment control measures must be shown on the plan (and installed if construction has already started).

Comment #14: Confirm if tree protection is required. If used, include a detail must be added to the plan.

Comment #15: Clarification that all disturbed areas have been sufficiently stabilized.

Comment #16: Any required landscape plan should include planting details, such as tree planting and staking, tree protection details for trees to remain. Seed mixture information should be provided, such as type of wildflower meadow mix, installation notes, seeding rates, maintenance plan.

Comment #17: Any proposed landscaping shall include applicable notes, including three-year survivability.

Comment #18: A stormwater plan in conformance with §164-47.10 Stormwater Management must be submitted.

Comment #19: Provide anticipated restoration schedule, including site grading, topsoil placement, and landscaping installation.

Comment #20: The path(s) of the vehicular traffic for the machinery or trucks involved with the land disturbance must be shown.

Comment #21: The Town of Warwick standard notes must be added to the plan.

Comment #22: Provide a map note stating that "No additional 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 11

Comment #23: The surveyor must sign and seal the plans.

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

Comment #25: Applicant to post any Performance Bond or Landscaping Bond, as determined by the Planning Board.

Comment #26: Payment of all fees.

Ju Su Da Farm / Mike Siegel Site Plan (Chapter 150)

Application for Review and Approval of “Chapter 150” Site Plan Application for placing of approximately 3 acres of fill soils, situated on tax parcel S 63 B 1 L 1.1; parcel located on NYS Route 94 and Sanfordville Road (172 St. Rte. 94S), in the OI zone of the Town of Warwick.

Representing the Applicant: Kirk Rother, P.E.

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 – comments pending
6. TW Building Department – comments pending
7. Planning Board to determine if a site inspection is necessary.
8. Planning Board to determine if additional landscaping is required.
9. All requirements set forth in §150-5 Permit Procedure must be satisfactorily completed.
10. The total amount of land where the topography has been changed (i.e., disturbed/filled) must be shown on the plan.
11. The plans should indicate if the natural drainage of the area has not been affected, including if adjacent property owners will be affected.
12. Applicant to clarify why this land is being disturbed, including proposed land surface covering.
13. Applicant to clarify if the land disturbance is complete or if additional land will be disturbed/filled. If additional land will be disturbed/filled application to show on plan view and include the area of the disturbance.
14. Proper erosion and sediment control measures must be shown on the plan (and installed if construction has already started).
15. Confirm if tree protection is required. If used a detail must be added to the plan.
16. Clarification that all disturbed areas, especially where the soil is or was recently steeply sloped, have been sufficiently stabilized.
17. Any required landscape plan should include planting details, such as tree planting and staking, tree protection details for trees to remain. Seed mixture information should be provided, such as type of wildflower meadow mix, installation notes, seeding rates, maintenance plan.
18. Any proposed landscaping shall include applicable notes, including three year survivability.
19. A stormwater plan in conformance with §164-47.10 Stormwater Management must be submitted.
20. Provide anticipated restoration schedule, including site grading, topsoil placement, and landscaping installation.
21. The location of any existing or proposed septic system, water supply well, building, driveway, or other improvements should be shown on the plan.
22. The path(s) of the vehicular traffic for the machinery or trucks involved with the land disturbance must be shown.
23. The Town of Warwick standard notes must be added to the plan.
24. The Town of Warwick standard note for lighting must be added to the plan.
25. Property owners within 300-ft of this property must be added to the plan.

26. Provide a map note stating that “No additional construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”
27. The surveyor must sign and seal the plans.
28. Surveyor to certify that iron rods have been set at all property corners.
29. Applicant to post any Performance Bond or Landscaping Bond, as determined by the Planning Board.
30. Payment of all fees.

The following comment submitted by the Conservation Board:

JuSuDa Farm / Mike Siegel Site Plan (Chapter 150) – None submitted.

The following comment submitted by the ARB:

JuSuDa Farm / Mike Siegel Site Plan (Chapter 150) – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has submitted a short EAF. It is subject to SEQRA. It is an Unlisted Action. The Planning Board could go ahead and declare itself Lead Agency. I have prepared a draft Resolution for the Planning Board’s consideration.

Mr. Kennedy makes a motion for Lead Agency.

Seconded by Mr. McConnell. 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: JuSuDa Chapter 150 Permit

Whereas, the Town of Warwick Planning Board is in receipt of an application from JuSuDa Farm Warwick, Inc. for approval pursuant to Chapter 150 of the Town Code for a ± 12.7 acre parcel of land located at State Route 94 and Sanfordville Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 6/6/22 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 on land that includes a farm operation or is on land within 500 feet of a farm operation 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, which are responsible for making their own determinations of significance.

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.

Mr. Fink: Looking at the application for the Chapter 150 permit, in the application packet the Applicant had identified that the NYSDEC was not going to exert jurisdiction for the wetland that is on the property. We should get that in writing so that we would have a record that the DEC has signed off on that. There had been indication in the past that there was correspondence that the DEC was going to treat it as a wetland even though it was not a mapped wetland. But now they are saying they would not be doing that any longer. That raises also the wetland issue of whether or not it is a federal wetland. That would need to be addressed. That would need to be addressed as to whether or not the areas out there meet the ACOE definition of waters of the United States. That was the primary issue. On the resource mapper, it does indicate that there is a Bog Turtle habitat in the area. We would need some sort of a correspondence with the DEC on that to see whether or not they sign-off on that particular issue or any other significant habitat areas that may be found on or adjoining the site. Those are the primary issues.

Laura Barca: The Building Department does have it in their records where the DEC does not want jurisdiction over this wetland.

Mr. Fink: Ok.

Laura Barca: There is a copy of that.

Mr. Fink: Ok.

Mr. MacDonald: Was that recent or from the past?

Laura Barca: I would say it was about 2 years ago.

Comment #2: Applicant to discuss project.

Kirk Rother: I will give you a brief history. Most of the Board is familiar with this property. We were before the Planning Board around the year 2019 for site plan approval. The Board had granted allowing the existing structure that are shown on the plan as well as an additional 4,000 s.f. building on the corner of Sanfordville and NYS Route 94. When Mike Siegel purchased this property back around 2007. We contacted the DEC. At the time, the DEC was in the process of updating their NYS wetland maps. They have not been updated since 1987. They had said that this wetland could potentially be eligible because of its hydraulic connections to the wetlands behind Price Chopper. They got a lot of push back from the Agricultural committee on those updated wetland maps. Those wetland maps never happened. We are still dealing with the 1987 freshwater wetland maps. This delineation was done by Doug Gaugler in the year 2009. We agreed to a voluntarily 50-foot buffer at the time until they could sort out what they are going to do with the wetland. I remember the days before Covid, I met with Mike Fratz from the DEC out here. He replaced Doug Gaugler. He had retired. Doug's delineation in the year 2009 had expired. It is valid for 10 years which was until 2019. Mike Fratz had said that they are no longer looking to take additional jurisdiction of a wetland like this. I know that Laura is aware of those conversations. That is in an email that we have. Regarding the Bog Turtles, we had looked at that. We have a permit for the septic system that serves the restaurant. That required a SPEDES permit because it is over 1000 gallons per day. When we went through that process, we had done a Bog Turtle study. We had a clean bill of health on the Bog Turtles. I believe the Board has that in their records already for when we did the site plan application for Mike Siegel in the year 2019.

Mr. Fink: Do you have an electronic copy of that?

Kirk Rother: Yes. I could get that. Mike Siegel has not built the building on the corner yet. He no longer has his voluntarily 50-foot buffer. He decided to bring ins some fill to level it out a bit with the hope of getting more usable commercial land. He started to bring some fill in. Prior to that, he started to remove some trees in the back.

Mr. Rother presents some photos of the tree clearing to the Board that goes back to the year 2001 and 2007 showing what trees existed and what was cleared. Mr. Rother explains to the Board the trees that were cut down by Mike Siegel were Frank Chokilo's old nursery trees. There were wire baskets buried in the ground. Mr. Kirk Rother does not know how many of the Chokilo's trees that were cut down. Mr. Rother goes on to say that somewhere in the Code of Chapter 150, it uses 8" diameter. Mr. Rother cannot answer on how many of the 8" trees were cut down.

Mr. McConnell: When we do the site visit, we should go with a tape measure to go to the stack of wood that is in the back that was cut down. We should measure each and everyone

of those trees. Is that what you are suggesting? If I find any over 8", then you would admit that is a tree. Is that what you are telling me?

Kirk Rother: I think that is what the Code says. I don't know how many trees he cut down. He did cut down a lot of them. None of them were natural, which is what the Code also states.

Mr. McConnell: None of them were natural?

Kirk Rother: They were not naturally grown there. May be some of the trees were. They were all nursery stuff.

Mr. McConnell: You have gone to say that none of them were natural to some were. That is a contradiction. Let's investigate as to what we have.

Mr. Showalter: Dennis, take a look at the evidence in the photos.

Kirk Rother: My point is, when I say that none of them were natural, were there some natural ones that grew up in the 20 years since those photos, that could be. This property was literally clear-cut and there was a field before all of the nursery product was brought in. What Mike Siegel cut down was 99% nursery stuff. I know that he wants to be here. Mike wants to fill up to the 50-foot buffer that is no longer in effect. I believe Laura's office and Pete Torgerson and Laura's Wetland Consultant had done a site visit. They looked at the wetlands. It is my understanding that Pete Torgerson is supposed to come back out to reflag it and resurvey it to see where the wetlands lie. They are definitely federal jurisdictional wetlands on the property.

Mr. Showalter: Laura showed me a map this afternoon. There are some discrepancies of where that is exactly. I believe at this point they are working on determining where everything is.

Kirk Rother: If you are asking me if Mike Siegel had filled in wetlands, I was there today. I noticed he put a little bit of dirt behind the restaurant that I had not seen before. That might just encroach just a little bit. Besides that, I don't think he had filled in the actual wetlands per the Doug Gaugler's 2009 delineation.

Laura Barca: When Steve Seymour, HDR's wetland specialist, last Thursday we met out there. It was Steve, Ben, Pete Torgerson and I. They went out there with their shovels and tools. Steve, HDR's wetland specialist does believe there was fill that was placed in land that contains the 3 criteria to be a wetland. It is not DEC wetland. We understand that. We do believe that it was filled in the federal wetland. With Ben and Connie, we prepared a memo that we sent to the ACOE last Friday, 7/15/22. We asked them what they think because it is their wetland. The Town did not want to get into a position of directing the Applicant to do something if it is in deed ACOE wetland. We are reaching out to ACOE to see what their opinion is and if they would like to offer one.

Mr. Showalter: Kirk stated earlier that the NYSDEC doesn't want anything to do with the wetlands. What happens if the ACOE says they don't want anything to do with it? Whose does it become then?

Laura Barca: It is an ACOE wetland. It never was a NYSDEC wetland.

Mr. Showalter: Ok.

Laura Barca: The question is, where is the line of the ACOE wetland in relation to the fill that was placed out there?

Mr. Showalter: Ok.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – comments pending

Comment #6: TW Building Department – comments pending

Comment #7: Planning Board to determine if a site inspection is necessary.

Mr. Showalter: The site visit is scheduled for August 17, 2022 at 5:30 p.m. We will list Comment #8 through Comment #30 for the record.

Kirk Rother: Could we be set for a public hearing?

Mr. Showalter: I think you should wait for the public hearing after we do a site visit. Ben should be here. Let's see how the site visit goes.

Kirk Rother: Ok.

Mr. Bollenbach: He could be set for a public hearing at the next available agenda. If the Applicant is not ready yet for a public hearing, we don't have to have one. But, we could set the application for a public hearing at the next available agenda.

Mr. McConnell makes a motion to set the JuSuDa Farm/Mike Siegel Site Plan (Chapter 150) application for a Public Hearing at the next available agenda.

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

Mr. Purcell: Is the property that we are referring to by the plaque/marker that claims the Military Encampment?

Kirk Rother: I believe there is a plaque on the corner there.

Mr. Purcell: I could tell you that in my military experience, wetland would never be a place to camp. For the most part, the environment has changed. We know about that now. I am happy that we are going to be doing a site visit. I would like to put my boots on and walk back there to see what is going on. In my opinion, the property does dip down in there. It seems like there is an 8 or 10-foot difference. In my opinion, that could be significant. Personally, I would feel better representing this Board and the Town of Warwick to see it first-hand.

Kirk Rother: There is definitely wetland in the low point of the valley.

Mr. Showalter: We will discuss this at the site visit on 8/17/22 at 5:30 p.m.

Kirk Rother: Ok. Thank you.

Comment #8: Planning Board to determine if additional landscaping is required.

Comment #9: All requirements set forth in §150-5 Permit Procedure must be satisfactorily completed.

Comment #10: The total amount of land where the topography has been changed (i.e., disturbed/filled) must be shown on the plan.

Comment #11: The plans should indicate if the natural drainage of the area has not been affected, including if adjacent property owners will be affected.

Comment #12: Applicant to clarify why this land is being disturbed, including proposed land surface covering.

Comment #13: Applicant to clarify if the land disturbance is complete or if additional land will be disturbed/filled. If additional land will be disturbed/filled application to show on plan view and include the area of the disturbance.

Comment #14: Proper erosion and sediment control measures must be shown on the plan (and installed if construction has already started).

Comment #15: Confirm if tree protection is required. If used a detail must be added to the plan.

Comment #16: Clarification that all disturbed areas, especially where the soil is or was recently steeply sloped, have been sufficiently stabilized.

Comment #17: Any required landscape plan should include planting details, such as tree planting and staking, tree protection details for trees to remain. Seed mixture information should be provided, such as type of wildflower meadow mix, installation notes, seeding rates, maintenance plan.

Comment #18: Any proposed landscaping shall include applicable notes, including three-year survivability.

Comment #19: A stormwater plan in conformance with §164-47.10 Stormwater Management must be submitted.

Comment #20: Provide anticipated restoration schedule, including site grading, topsoil placement, and landscaping installation.

Comment #21: The location of any existing or proposed septic system, water supply well, building, driveway, or other improvements should be shown on the plan.

Comment #22: The path(s) of the vehicular traffic for the machinery or trucks involved with the land disturbance must be shown.

Comment #23: The Town of Warwick standard notes must be added to the plan.

Comment #24: The Town of Warwick standard note for lighting must be added to the plan.

Comment #25: Property owners within 300-ft of this property must be added to the plan.

Comment #26: Provide a map note stating that "No additional 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 surveyor must sign and seal the plans.

Comment #28: Surveyor to certify that iron rods have been set at all property corners.

Comment #29: Applicant to post any Performance Bond or Landscaping Bond, as determined by the Planning Board.

Comment #30: Payment of all fees.

Dario Gagliardi Site Plan (Chapter 150)

Application for Review and Approval of "Chapter 150" Site Plan Application, situated on tax parcel S 64 B 1 L 57; parcel located on the southerly side of Black Rock Road at the corner of Brady Road (78 Black Rock Rd.), in the MT zone, of the Town of Warwick.

Representing the Applicant: James Dillin, PLS. Jerry Gagliardi, 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 – comments pending
6. TW Building Department – comments pending
7. Planning Board to determine if a site inspection is necessary.
8. Planning Board to determine if additional landscaping is required.
9. All requirements set forth in §150-5 Permit Procedure must be satisfactorily completed.
10. The total amount of land where the topography has been changed (i.e., disturbed/filled) must be shown on the plan.
11. The plans should indicate if the natural drainage of the area has not been affected, including if adjacent property owners will be affected.
12. Applicant to clarify why this land is being disturbed, including proposed land surface covering.
13. Applicant to clarify if the land disturbance is complete or if additional land will be disturbed/filled. If additional land will be disturbed/filled application to show on plan view and include the area of the disturbance.
14. Proper erosion and sediment control measures must be shown on the plan (and installed if construction has already started).
15. Confirm if tree protection is required. If used, a detail must be added to the plan.
16. Clarification that all disturbed areas, especially where the soil is or was recently steeply sloped, have been sufficiently stabilized.
17. Any required landscape plan should include planting details, such as tree planting and staking, tree protection details for trees to remain. Seed mixture information should be provided, such as type of wildflower meadow mix, installation notes, seeding rates, maintenance plan.
18. Any proposed landscaping shall include applicable notes, including three year survivability.
19. A stormwater plan in conformance with §164-47.10 Stormwater Management must be submitted.
20. Provide anticipated restoration schedule, including site grading, topsoil placement, and landscaping installation.
21. The path(s) of the vehicular traffic for the machinery or trucks involved with the land disturbance must be shown.
22. The Town of Warwick standard notes must be added to the plan.
23. The Town of Warwick standard note for lighting must be added to the plan.
24. Property owners within 300-ft of this property must be added to the plan.

- 25. Provide a map note stating that “No additional construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”
- 26. Surveyor to certify that iron rods have been set at all property corners.
- 27. Applicant to post any Performance Bond or Landscaping Bond, as determined by the Planning Board.
- 28. Payment of all fees.

The following comment submitted by the Conservation Board:

Dario Gagliardi Site Plan (Chapter 150) – None submitted.

The following comment submitted by the ARB:

Dario Gagliardi Site Plan (Chapter 150) – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has submitted a short EAF. This is a little bit different from the last Chapter 150 Nepco application. This application has been classified as a Type 2 Action. The reason for that is under the SEQRA Regulations, if it is in relation to a single-family dwelling on an approved lot, that makes it a classification for a Type 2 Action. That is how it differs from the Nepco application. I have prepared a draft Resolution for the Planning Board’s consideration.

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

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

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

Name of Action: Gagliardi Chapter 150 Permit

Whereas, the Town of Warwick Planning Board is in receipt of an application for approval, pursuant to Chapter 150 of the Town Code, for a ±7.108 acre parcel of land located at 78 Black Rock Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 6/28/22 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)(11) and, therefore, SEQR does not apply, and

Whereas, the Planning Board has determined that the proposed project is not within a New York State Agricultural District or on property with boundaries within 500 feet of a farm operation within an Agricultural District and, therefore, the requirements of 6 NYCRR 617.6(a)(5) do not apply, and

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

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

Mr. Fink: There is no further SEQRA review. There are no issues related to species.

Mr. Showalter: There are no Indiana bats there. I live there. There are a few bears to watch out for and lots of deer.

Comment #2: Applicant to discuss project.

James Dillin: The Gagliardi's had purchased this lot to build a single-family home on it. This lot was an approved pre-existing lot back in 1987. They had done a survey of the property. They got the information for a building permit. They decided to clear out the property because it was so thick. They did not know the regulations for clearing of property. That is why we are here before the Planning Board. On the plan, I have a limit of disturbance which they had cleared the trees. There was about a 1/2-acre cleared already. They have cleared an approximate total of 3.7 acres of small trees and brush. When we do the site visit, you will see what has happened.

Jerry Gagliardi: There is quite a bit of brush along the road that is very bad. The vines have tackled everything there.

Mr. Showalter: Yes. It has. It is all Ash trees. 90% of the trees were already dead.

Jerry Gagliardi: Right.

Mr. Showalter: Ok.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department – comments pending

Comment #6: TW Building Department – comments pending

Comment #7: Planning Board to determine if a site inspection is necessary.

Mr. Showalter: The site visit has been scheduled for August 17, 2022 at 5:30 p.m. We will list Comment #8 through Comment #28 for the record. Do any Board members or Professionals have any comments or concerns?

Mr. Bollenbach: Does the Applicant wish to be set for a public hearing?

James Dillin: Yes.

Mr. Kennedy makes a motion to set the Dario Gagliardi Site Plan (Chapter 150) application for a Public Hearing at the next available agenda.

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

James Dillin: I would like to make one comment about the upcoming site visit. The way the driveway was designed on the plan, there seems to be a lot of excavation. Right now, there is an existing driveway off Brady Road that has excellent site distance. Maybe the Board should take a look at the driveways. We could go either way with it.

Mr. Showalter: We will take a look at that at the site visit. We will make that determination once we see it.

James Dillin: Ok. Thank you.

Comment #8: Planning Board to determine if additional landscaping is required.

Comment #9: All requirements set forth in §150-5 Permit Procedure must be satisfactorily completed.

Comment #10: The total amount of land where the topography has been changed (i.e., disturbed/filled) must be shown on the plan.

Comment #11: The plans should indicate if the natural drainage of the area has not been affected, including if adjacent property owners will be affected.

Comment #12: Applicant to clarify why this land is being disturbed, including proposed land surface covering.

Comment #13: Applicant to clarify if the land disturbance is complete or if additional land will be disturbed/filled. If additional land will be disturbed/filled application to show on plan view and include the area of the disturbance.

Comment #14: Proper erosion and sediment control measures must be shown on the plan (and installed if construction has already started).

Comment #15: Confirm if tree protection is required. If used, a detail must be added to the plan.

Comment #16: Clarification that all disturbed areas, especially where the soil is or was recently steeply sloped, have been sufficiently stabilized.

Comment #17: Any required landscape plan should include planting details, such as tree planting and staking, tree protection details for trees to remain. Seed mixture information should be provided, such as type of wildflower meadow mix, installation notes, seeding rates, maintenance plan.

Comment #18: Any proposed landscaping shall include applicable notes, including three-year survivability.

Comment #19: A stormwater plan in conformance with §164-47.10 Stormwater Management must be submitted.

Comment #20: Provide anticipated restoration schedule, including site grading, topsoil placement, and landscaping installation.

Comment #21: The path(s) of the vehicular traffic for the machinery or trucks involved with the land disturbance must be shown.

Comment #22: The Town of Warwick standard notes must be added to the plan.

Comment #23: The Town of Warwick standard note for lighting must be added to the plan.

Comment #24: Property owners within 300-ft of this property must be added to the plan.

Comment #25: Provide a map note stating that “No additional construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”

Comment #26: Surveyor to certify that iron rods have been set at all property corners.

Comment #27: Applicant to post any Performance Bond or Landscaping Bond, as determined by the Planning Board.

Comment #28: Payment of all fees.

Other Considerations:

1. Planning Board Minutes of 6/15/22 for PB approval.

Mr. MacDonald makes a motion to approve the PB Minutes of 6/15/22.

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

2. Memo from Town Board to the Planning Board in regards to Proposed Zoning Changes, Chapter 164. Planning Board to discuss recommendation to the Town Board.

Mr. Fink: The Town Board has proposed a Local Law to amend the Zoning Law. It is fairly limited in scope. What the Town Board has been looking to do is to define a food truck and to require for food trucks an operating permit within the Town. That would be the only requirement other than satisfying the OC Health Department requirements for food service. That is recognized in the definition of a food truck. That would be added to the Zoning Law. There is also a change proposed to the definition of Principal Use that the Town Board wanted to restrict principal uses from allowing other special permit uses except for residential uses. There are very limited numbers of special uses that you could have on a residential lot within the Town's residential Zoning districts. That would be may non-conforming such as animal hospitals and dog kennels. The reason being is that they are not residential uses. I had discussed this with Mike Sweeton. He felt that there needed to be a further study on that. For the time being, the Town Board did want to make the definition of a principal use more restrictive by eliminating other non-residential special uses that could be established on a residential lot.

Mr. Showalter: What examples of that would that be?

Mr. Fink: Examples would be a dog kennel and an animal hospital. Almost every time we have seen an application for an animal hospital or for a dog kennel are from people that live in the same building as their animal hospital or their dog kennel. That is not always the case. There are cases where it has been discussed. We had an application a number of years ago for a dog kennel that would not have a resident living there. There are a couple of other examples such as a house of Worship or a church that would have a rectory or something like that for the Minister or Priest that is associated with the church. There might be one or two other examples in the Town Code. The Town Board did want to further limit the definition of a principal use to allow things like guest cottages, Class 2 Home Occupation as a special permit use. Those would still be permitted. There might be others down the road that the Town Board might want to take a look at and amend at a later time. There was one part of this letter that was removed. I didn't know about it. I had prepared a draft letter for the Planning Board. That had to do with the removal of one word in one of the special conditions, Section 164-46.J(16), which is an accessory to a residential use of keeping of dogs shall not exceed. Then it goes on about litters and so forth. There was one thing that the Town Board had wanted to include in this was an exclusion for Roosters. It was my understanding that had blown up. People were upset that they could not have Roosters on their property. People were saying that they have a few chickens and that they need the Roosters. There were other people that were against

the Roosters in a residential area. The Town Board has dropped that from consideration of Local Law. The other thing is a simple clarification pertaining to farm markets to make it clearer about the need for temporary outdoor gathering permit for on farm festivals that includes outdoor music. That is about it. You have a draft letter in front of you addressed to the Town Board from the Planning Board. The letter states that the Planning Board has no objections to moving forward to adoption the proposed Zoning Amendments.

Mr. Showalter: We need a motion to send that memo to the Town Board recommending the changes on the proposed Zoning Amendments. Do any Board members have any comments?

Mr. McConnell: John, when would the Town Board be considering this?

Mr. Bollenbach: I don't know.

Mr. McConnell: I think since we just received this letter today, I would suggest we hold off on this until our next meeting to say either aye or nay to give us an idea and chance to review it in detail so we know what we are talking about.

Mr. MacDonald: I like that.

Mr. Showalter: Rich, do you agree with that?

Mr. Purcell: Yes.

Mr. Showalter: Bo, do you agree with what Dennis had said?

Mr. Kennedy: Yes. I am fine with doing that.

Mr. Showalter: I agree as well.

Mr. MacDonald: This is a hot issue that is all over social media right now.

Mr. McConnell: Even if it wasn't, I don't like to be presented with something...

Mr. Showalter: To be presented with something at last minute to make a decision on. I agree with you.

Mr. McConnell: I did not say at the last minute. I would just like to have a little more time to digest it.

Mr. Showalter: Right. I agree with you.

Laura Barca: Minus the Rooster conversation, this was what Mike Sweeton had discussed at the Work Session. It is the same thing. It is just minus anything to do with the Rooster. That conversation is being "Tabled".

Mr. Fink: Correct.

Mr. Showalter: I would like to discuss it with some of my opinions on it with some of the Board members and the Supervisor. For now, we will hold off on this. The letter to the Town Board regarding the proposed Zoning Amendments has been "Tabled". Table it just like they had "Tabled" the Rooster issues.

3. **Maylor-Mitchell Lot Line Change** – Letter from Jeremy Havens, Esq., addressed to the Planning Board in regards to the Maylor-Mitchell Lot Line Change application – requesting a 6-Month Extension for a proposed lot line change, situated on tax parcels SBL # 23-1-56.1 & 62.2; parcels located at 148 East Ridge Road, in the SL zone, of the Town of Warwick, County of Orange State of New York. Conditional Final Approval was granted on 1/19/22. *The Applicant has stated that the extension is needed due to unforeseen circumstances and unanticipated delays in getting all of the documents prepared by the professionals representing the Applicant and complete execution and recording of the Deeds.* The 6-Month Extension becomes effective on 7/19/22.

Mr. McConnell: There are 2 issues there.

Connie Sardo: I spoke to Jeremy Havens. First of all, this is their 1st 6-Month Extension. It is true regarding some unforeseen circumstances. They are working on it. It has nothing to do with the Town's Professionals. I just want to state for the record this is their 1st 6-Month Extension. They are working on it.

Mr. McConnell: Understood. John, would you agree there is a difference between the execution of these things and the recording of these things. I know we have heard that recording is problematic in the of times with Covid. Do you have any sense on whether the County Clerk has made any progress in recording in more of a timely fashion?

Mr. Bollenbach: It is minimal.

Mr. McConnell: Ok.

Mr. Bollenbach: I believe there is also a hold up with the Surveyors. The Surveyors are really backed up. They just don't have the manpower. They can't get any help. It has been as struggle.

Mr. Showalter: Dennis, the last time I had spoken to Kelly, the Orange County Clerk, she had stated that they need like 12 people there. They lost many people.

Mr. McConnell makes a motion on the Maylor-Mitchell Lot Line Change application, granting a 6-Month Extension on conditional Final Approval of a proposed lot line, situated on tax parcels S 23 B 1 L 56.1 & 56.2; parcels located at 148 East Ridge Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. Conditional Final Approval was granted on 1/19/22.

The 6-Month Extension becomes effective on 7/19/22.

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

4. Planning Board to discuss canceling the 7/25/22-Work Session & 8/3/22-PB Meeting.

Mr. McConnell makes a motion to cancel the 7/25/22-Work Session & 8/3/22-PB Meeting.

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

Correspondences:

Mr. Showalter: Connie, do we have any correspondences this evening?

Connie Sardo: No.

Privilege Of The Floor For Agenda Items!!

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

Mr. McConnell makes a motion to adjourn the July 20, 2022 Planning Board meeting.

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