

TOWN OF WARWICK PLANNING BOARD

June 7, 2023

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, June 7, 2023 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

Review of Submitted Maps:

St. Stanislaus Church Lot Line Change “Amended” Final Approval

Application for “**Amended**” Final Approval of a proposed 3-Lot, Lot Line Change; situated on tax parcels S 13 B 1 L 17, S 13 B 1 L 1.4 and S 13 B 1 L 1.1; parcels located on the northern side of C.R. 1, 570 feet west of Pulaski Hwy., in the SL/LB zones, of the Town of Warwick. Original conditional Final Approval granted on 4/5/23.

Representing the Applicant: Stephen Mandracchia, Attorney

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 –
6. OCDPW – 04/05/23 no further review or approval is needed
7. TW Building Department – 03/06/23 13-1-1.1 no violations, 13-1-1.4 open permit #31301 for addition (valid until 06/17/23), 13-1-17, expired permit for handicapped ramp and needs fire inspection.
8. Planning Board to determine if a site inspection is necessary.
9. Applicant to show square rule §137-21.K(1). Applicant requesting a waiver.
10. Applicant to show buildable area §137-21.A. Applicant requesting a waiver.
11. Surveyor to certify that iron rods have been set at all property corners.
12. Surveyor to sign and seal drawing.
13. Applicant to submit filed declaration information for Agricultural and Aquifer Overlay Notes (date files, liber, and page).
14. Submit documentation that easement over parcel 13-1-1.4 has been extinguished.

15. Payment of all fees.

The following comment submitted by the Conservation Board:

St. Stanislaus Church Lot Line Change “Amended” Final Approval – None submitted.

The following comment submitted by the ARB:

St. Stanislaus Church Lot Line Change “Amended” Final Approval – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Liz Axelson: I have prepared a SEQRA Resolution of an Amended Type 2 Action for the Planning Board’s consideration.

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

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

617.6

State Environmental Quality Review (SEQR)

Amended Resolution for June 7, 2023

Type II Action

Name of Action: Stanislaus Lot Line Revision Application

Whereas, the Town of Warwick Planning Board is in receipt of an amended application and plan for review and approval of a Lot Line Revision approval by Saint Stanislaus Roman Catholic Church for conveyance of portions of parcels between Tax Parcels Section 13, Block 1, Lot 17; and Lots 1.4 and 1.1 , located at 17 Pulaski Highway, Pine Island, Town of Warwick, Orange County , New York; and

Whereas, the Town of Warwick Planning Board has reviewed the submittal including a sketch of a revised lot line received May 9, 2023; and drawing entitled Lot Line Change for Philip Hamling, Morgiewicz Living Trust, and St. Stanislaus Roman Catholic Church, prepared by John Nelting, Land Surveyor, John Robert Nelting Surveying and Mapping, PLLC, dated January 4, 2023, revised March 1, 2023 and June 2, 2023, showing conveyance of portions of parcels as described above, and no construction is proposed;

Whereas, in consideration of the applicant’s request for approval of the Lot Line Revision, after comparing the thresholds contained in 6 NYCRR 617.4 and .5

of New York State Environmental Quality Review Act (SEQRA) regulations, the Planning Board has determined that the proposed action is a Type II Action under the New York State Environmental Quality Review Act (SEQRA) regulations section 617.5, subsection (c)(16); and, therefore, SEQR does not apply.

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

Comment #2: Applicant to discuss project.

Stephen Mandracchia: This is an amended application. The application is to permit the donation by the Morgiewicz Living Trust of a strip of land approximately 51' x 228' donated to St. Stanislaus Church to become part of the cemetery lot. What we are looking to do is to take that portion of the property part of SBL #13-1—1.1 and merge it into SBL #13-1-17 St. Stanislaus Church.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department –

Comment #6: OCDPW – 04/05/23 no further review or approval is needed

Comment #7: TW Building Department – 03/06/23 13-1-1.1 no violations, 13-1-1.4 open permit #31301 for addition (valid until 06/17/23), 13-1-17, expired permit for handicapped ramp and needs fire inspection.

Stephen Mandracchia: I am not sure what the Town needs for me to do. Those other properties I don't have any relation to the application that is before us. I am not sure as to what needs to be done by the Applicant.

Mr. Bollenbach: This is for the church property. Is that correct?

Stephen Mandracchia: Correct.

Mr. Bollenbach: It has to be remedied now.

Stephen Mandracchia: What is the remedy?

Mr. Bollenbach: You would need to go to the Building Department to take care of this. If you need a fire inspection then get a fire inspection.

Mr. Showalter: Talk to your people.

Stephen Mandracchia: Ok.

Mr. Astorino: If the expired permit is for the handicapped ramp, they could close that out.

Stephen Mandracchia: Right. Ok.

Comment #8: Planning Board to determine if a site inspection is necessary.

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

Mr. Bollenbach: We could strike Comment #8.

Comment #9: Applicant to show square rule §137-21.K(1). Applicant requesting a waiver.

Comment #10: Applicant to show buildable area §137-21.A. Applicant requesting a waiver.

Mr. Bollenbach: It makes sense to waive Comment #9 and Comment #10.

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

Stephen Mandracchia: Will do.

Comment #12: Surveyor to sign and seal drawing.

Stephen Mandracchia: Will do.

Comment #13: Applicant to submit filed declaration information for Agricultural and Aquifer Overlay Notes (date files, liber, and page).

Mr. Bollenbach: You could put the Agricultural and Aquifer Overlay Notes on the plan. The cemetery doesn't need a declaration. The notes on the plan would be sufficient.

Comment #14: Submit documentation that easement over parcel 13-1-1.4 has been extinguished.

Stephen Mandracchia: That will be part of the deed.

Mr. Astorino: Right.

Comment #15: Payment of all fees.

Stephen Mandracchia: Yes.

Mr. Astorino: Do any Board members or Professionals have any comments or concerns? Does the Applicant wish to waive the Final Public Hearing?

Stephen Mandracchia: Yes.

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

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

Mr. Showalter makes a motion to waive Comment #9 square rule and Comment #10 buildable area.

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

Mr. Showalter makes a motion on the St. Stanislaus Church amended application, granting **“Amended”** Final Approval of a proposed 3-Lot, Lot Line Change; situated on tax parcels S 13 B 1 L 17, S 13 B 1 L 1.4 and S 13 B 1 L 1.1; parcels located on the northern side of C.R. 1 570 feet west of Pulaski Hwy., in the SL/LB zones, of the Town of Warwick, County of Orange, state of New York. An Amended Type 2 Action was adopted on June 7, 2023. Approval is granted subject to the following conditions:

1. TW Building Department – 03/06/23 13-1-1.1 no violations, 13-1-1.4 open permit #31301 for addition (valid until 06/17/23), 13-1-17, expired permit for handicapped ramp and needs fire inspection.
2. Applicant to show square rule §137-21.K(1). Applicant requesting a waiver. (WAIVED)
3. Applicant to show buildable area §137-21.A. Applicant requesting a waiver. (WAIVED)
4. Surveyor to certify that iron rods have been set at all property corners.
5. Surveyor to sign and seal drawing.
6. Provide Agricultural and Aquifer Overlay Notes [(date, liber, and page). Declaration not required.]
7. Submit documentation that easement over parcel 13-1-1.4 has been extinguished.
8. Payment of all fees.

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

Stephen Mandracchia: Thank you.

Bruno Rzeznik “Chapter 150”

Application for Review and Approval of “Chapter 150” Site Remediation Plan Application, situated on tax parcel S 58 B 1 L 39.223; parcel located on the northwestern side of Old Dutch Hollow Road 3200 feet south of Nelson Road (353 Old Dutch Hollow Rd.), in the MT zone, of the Town of Warwick.

Representing the Applicant: Geoffrey Bass, Engineer. Bruno Rzeznik, 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 –
6. TW Building Department – 05/26/23 §150 violation
7. Planning Board to determine if a site inspection is necessary.
8. Building Department review of soil report – concluded that soil did not exceed acceptable limits.
9. Property owners within 300-ft of this property must be added to the plan.
10. Additional information should be added to the plan to indicate if tree removal was involved or only land disturbance.
11. Applicant to submit NYSDEC enviromapper, FEMA floodplain, and USACE wetland maps to confirm that there was no floodplain or wetland filling.
12. The plan should include a detail for the seed that is proposed.
13. The plans should indicate if the natural drainage of the area has been affected, including if adjacent property owners will be affected.
14. Provide anticipated restoration schedule, including site grading, topsoil placement, access restoration, and landscaping installation (as appropriate).
15. Applicant to clarify the addition of the mafia blocks at the toe of fill. The blocks do not seem to be reflected in the topography; meaning that the contour lines seem to pass over the line of blocks as if they are not there.
16. It is assumed that the mafia blocks are proposed for stability; however, the blocks will channelize stormwater flow and possibly contribute more to runoff than prevent erosion.
17. 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.
18. Applicant to confirm if the silt fencing has already been installed.
19. Confirm location(s) of any significant trees and if tree protection is required. If used, a detail must be added to the plan.
20. Clarification if all disturbed areas, especially where the soil is or was recently disturbed, have been sufficiently stabilized.
21. The Town of Warwick standard notes must be added to the plan (Overlay Protection District Table, Lighting, (Ridgeline, Agricultural, Aquifer, Biodiversity, if applicable), and projects on a Town Road.

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.”
23. Surveyor to certify that iron rods have been set at all property corners.
24. Planning Board to determine if additional landscaping is required. 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.
25. Any proposed landscaping shall include applicable notes, including three-year survivability.
26. Applicant to post any Performance Bond and/or Landscape Bond, as determined by the Planning Board.
27. Payment of all fees.

The following comment submitted by the Conservation Board:

Bruno Rzeznik “Chapter 150” – None submitted.

The following comment submitted by the ARB:

Bruno Rzeznik “Chapter 150” – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Liz Axelson: This application seemed to be a minor application. I had prepared a SEQRA draft Resolution to determine this as a Type 2 Action. I understand that there were some observations at the Planning Board’s site visit. It might make sense for the Board to hold off and not take action on SEQRA until more information could be provided.

Mr. Astorino: Ok.

Comment #2: Applicant to discuss project.

Geoffrey Bass: Mr. Rzeznik had some fill brought in without permission from the Town. The Building Department cited them several months ago for illegally filling on his property. Mr. Rzeznik has retained me to deal with the Town’s objections and prepare a site plan.

Mr. McConnell: Please let the record reflect that what the Applicant had done was exceeded the ¼-acre of filling.

Mr. Astorino: He violated the Chapter 150.

Mr. McConnell: He violated the Chapter 150. It wasn’t simply because he put some fill on the property. It was beyond what he would have been allowed to do without proper permits.

Geoffrey Bass: Ok.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: OC Planning Department –

Comment #6: TW Building Department – 05/26/23 §150 violation

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

Mr. Astorino: We went out to the site this evening. We need more information from the Applicant. We talked about where the septic is located. You would either have to camera the septic or dye test the septic. You need to get a final location of that shown on the plan. We did talk about how there are some dead trees that are on the slope that would need to be removed. You would need to put some Junt Mesh and hydroseeding to stabilize that section of the slope.

Laura Barca: Would the drawings reflect the plan to do those actions or is the Board requesting for that to be done now?

Mr. Astorino: No. We would need to see a plan.

Laura Barca: Ok.

Mr. Astorino: You will need to revise your plans showing the Junt Mesh and the Hydroseeding. You will need to verify where the septic system is located. You will need to put more information on the plans. Does the Board have anything else? That is where we are with this project right. We are requesting more information from you. Bring it back to us. We would then move forward with your application.

Mr. MacDonald: Do we need to make sure that the cleanouts are shown as well?

Mr. Astorino: That would be a question for Laura. That was brought up at the site visit. Do the cleanouts of the septic system need to be brought up to the surface? You brought it up at the site visit. John MacDonald just reiterated it. Is that something that needs to be done?

Laura Barca: The first thing would be is that we need to know where the septic system is located. The purpose of the cleanouts is to maintain the system.

Mr. Astorino: It does make sense to have them. Is that correct?

Mr. Bollenbach: That is the purpose of them.

Mr. Astorino: Let's first verify where the system is located. If the cleanout do exist, you will need to make sure that they are brought up to surface so they could be used.

Geoffrey Bass: Ok. Will do.

Comment #8: Building Department review of soil report – concluded that soil did not exceed acceptable limits.

Mr. McConnell: I have difficulty with the language here. There are standards for the soil that could be brought in. The test here apparently was within the acceptable limits of those parameters. The reason why they are in front of the Board is because they had exceeded the limit of how much soil they could bring in without a permit. I think this just needs to be so that the record is clear as to what was going on.

Mr. Bollenbach: They also need the soil quality in the report.

Mr. McConnell: Right.

Mr. Astorino: They will need to bring back more information to us.

Mr. McConnell: When we see this again, it would more accurately state what happened.

Mr. Showalter: Right. I also agree with our Attorney regarding the soil quality did not exceed acceptable limits.

Mr. Bollenbach: Correct.

Laura Barca: Ok.

Bruno Rzeznik: Are you saying that it is bad?

Mr. Showalter: No.

Mr. Astorino: No. We are not saying it is bad. We want the note to reflect that it is not bad.

Bruno Rzeznik: Ok. I misunderstood.

Comment #9: Property owners within 300-ft of this property must be added to the plan.

Geoffrey Bass: Yes.

Comment #10: Additional information should be added to the plan to indicate if tree removal was involved or only land disturbance.

Mr. Astorino: At the site visit, we had seen that there are some dead trees that have to come out in order to stabilize the soil. Show on the plan trees to be removed.

Bruno Rzeznik: I plan on cutting down at least two more trees.

Mr. Astorino: You have a few more than two trees.

Bruno Rzeznik: There are some close to my neighbor's property that are basically dead. She is worried that it might fall on her property.

Mr. Astorino: I will talk to your engineer now. You will need to show us on the plan the trees that are going to be removed. There are trees on the slope that have to be removed. You will need to show all of that.

Geoffrey Bass: Ok.

Comment #11: Applicant to submit NYSDEC enviromapper, FEMA floodplain, and USACE wetland maps to confirm that there was no floodplain or wetland filling.

Geoffrey Bass: Ok.

Comment #12: The plan should include a detail for the seed that is proposed.

Mr. Astorino: You would need to show the hydroseed.

Comment #13: The plans should indicate if the natural drainage of the area has been affected, including if adjacent property owners will be affected.

Geoffrey Bass: Ok. That has been addressed.

Comment #14: Provide anticipated restoration schedule, including site grading, topsoil placement, access restoration, and landscaping installation (as appropriate).

Geoffrey Bass: That is on the plan.

Comment #15: Applicant to clarify the addition of the mafia blocks at the toe of fill. The blocks do not seem to be reflected in the topography; meaning that the contour lines seem to pass over the line of blocks as if they are not there.

Comment #16: It is assumed that the mafia blocks are proposed for stability; however, the blocks will channelize stormwater flow and possibly contribute more to runoff than prevent erosion.

Mr. Astorino: We can strike Comment #15 and Comment #16. You would not need the mafia blocks. The mafia blocks won't work at the bottom. Does the Board agree with striking Comment #15 and Comment #16?

Mr. McConnell: Yes.

Mr. Showalter: Yes.

Comment #17: 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.

Bruno Rzeznik: Never again.

Comment #18: Applicant to confirm if the silt fencing has already been installed.

Mr. Astorino: We had seen that the silt fencing was there. It would have to be upgraded. Some of the silt fencing is down. It needs to be maintained until stabilized.

Comment #19: Confirm location(s) of any significant trees and if tree protection is required. If used, a detail must be added to the plan.

Mr. Astorino: We discussed that.

Comment #20: Clarification if all disturbed areas, especially where the soil is or was recently disturbed, have been sufficiently stabilized.

Mr. Astorino: On the top part, it seemed like the grass has come in on the slope part. It needs some more work.

Comment #21: The Town of Warwick standard notes must be added to the plan (Overlay Protection District Table, Lighting, (Ridgeline, Agricultural, Aquifer, Biodiversity, if applicable), and projects on a Town Road.

Laura Barca: The Overlay District Table is not on there. We don't know if they are in any of those overlays or what is applicable.

Geoffrey Bass: I don't know. I would have to check that out.

Mr. Bollenbach: We would also need recorded declarations.

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."

Geoffrey Bass: That note is on the plan.

Comment #23: Surveyor to certify that iron rods have been set at all property corners.

Bruno Rzeznik: That has been done when we had done the original survey.

Mr. Astorino: You would need to provide that.

Comment #24: Planning Board to determine if additional landscaping is required. 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.

Mr. Astorino: You would get that information from your Landscaper that would be doing the seeding.

Comment #25: Any proposed landscaping shall include applicable notes, including three-year survivability.

Mr. Astorino: That would be if you were putting in trees. I don't believe you are proposing to put in any trees.

Geoffrey Bass: Not at the moment.

Comment #26: Applicant to post any Performance Bond and/or Landscape Bond, as determined by the Planning Board.

Mr. Astorino: I don't believe you would need that.

Comment #27: Payment of all fees.

Bruno Rzeznik: Yes.

Mr. Bollenbach: If they are going to install additional seeding and everything else, there would have to be some sort of assurance that it would be done properly and maintained.

Bruno Rzeznik: The contractor would be doing that.

Mr. Bollenbach: We need to have some assurance. They are not going to do this before we give them an approval.

Mr. Astorino: I get that. But, are we going to bond seeding?

Mr. Bollenbach: Yes. We want to make sure that the seeding would be installed properly. The landscaping and silt fence is supposed to be in place.

Bruno Rzeznik: How do I know that the contractor will do that?

Mr. Bollenbach: It would be your responsibility.

Bruno Rzeznik: I had a neighbor down the road that had done seeding. Nothing grew.

Mr. Bollenbach: That is my precise point.

Mr. Astorino: You would have your contractor Junt Mesh and seed the hill. There would be a cost involved for them to do that. That would determine a cash bond for three-years to make sure that the seeding takes and grows.

Mr. Bollenbach: Right. If the grass dies, what is the assurance that it would be reclaimed properly.

Mr. Astorino: It would still be called a landscape bond. Is that correct?

Mr. Bollenbach: Yes. Correct.

Mr. Astorino: That is where we are with that. You will be back before the Board. Have your engineer supply us with the information that we need. We would then go from there.

Geoffrey Bass: Ok. Thank you.

M&T/Ted Edwards 4-Lot Subdivision

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

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

The following comment submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – no comments received
4. Architectural Review Board – no comments received
5. OC Planning Department – 06/13/22 advisory comments for removing property from the Orange County Agricultural District #2 if farming is no longer proposed on a portion of the lot, Indiana bats habitat, and steep slope construction
6. TW Building Department – 05/31/22 barn with living area for caretaker needs to provide a yearly farm worker affidavit to the Building Department.
7. State Historic Preservation Office – Applicant will need to conduct a Phase 1A/1B archeological study; Applicant has hired an archaeologist to complete this work.
8. ZBA: Town Law §280(a) for access for the 3-lot subdivision by a shared driveway; §164.41C(4)(f) allowing a 6-ft fence in the front yard setback whereas a 4-ft fence is allowed. Fence must be earth-tone color. 10/24/22 ZBA variances granted.
9. It is recommended that the Applicant use the well that is located farther from the shared driveway.
10. Applicant to show the approximate septic system locations for all existing homes (26-1-30.2, 26-1-116, 26-1-117 and two septic systems on 26-1-118).
11. Applicant to show the existing buried propane tank location for parcel 26-1-117.
12. Applicant to clarify that the property is in compliance with §153-1 (not more than one abandoned or unlicensed non-farm vehicle can be on property).
13. 911 addresses must be obtained from the Building Department and then shown on the plan.
14. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” Sheet C-1, Note 10
15. Surveyor to certify that iron rods have been set at all property corners.
16. The liber and page for the Agricultural and Biodiversity notes, as well as the Shared Driveway Agreement must be added to the plan.
17. A cost estimate for the shared driveway that must be paved in its entirety must be submitted before the Board takes an action.
18. The shared driveway bond, landscape bond, and site inspection fees must be submitted prior to the maps being signed.
19. Payment in lieu of parkland for three lots per Town of Warwick Town Code §75-3.A.(2)(a)[3].
20. Payment of all fees.

The following comment submitted by the Conservation Board:

M&T/Ted Edwards 4-Lot Subdivision – None submitted.

The following comment submitted by the ARB:

M&T/Ted Edwards 4-Lot Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Liz Axelson: I have reviewed the application. The Planning Board would need more information on the plans before any SEQRA action could be taken. I am not recommending any SEQRA action tonight. What I had done was prepare a memo of comments from CPL, dated June 6, 2023. There are a number of comments. Most of the comments have to do with the information on the plans. I understand that you have archaeological and cultural sensitivity on the site. Your consultants would need to produce a Phase 1A and Phase 1B cultural resource investigations. You would need to get those reports to us once you have them. On the plans, you have some hatch markings on the plan that looks like a wetland but they are not labeled. I looked at the full EAF mapper to check to see what might be on the property. It indicates that there might possibly be Federal and/or State wetlands on the property. I would recommend that you do a wetland delineation report. On the short EAF, threatened and endangered species showed up in response to question #15 on the short EAF. It shows there are Indiana Bats. I would recommend that you provide a Habitat Assessment for the site. You will need to provide all of that information to the Planning Board. Stated below is CPL Memorandum dated June 6, 2023:

MEMORANDUM

Date: June 6, 2023

To: Chairman Ben Astorino and Town of Warwick Planning Board

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

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

We have reviewed the materials listed at the end of this memorandum according to pertinent requirements and standards of the Code of the Town of Warwick, primarily

Chapter 164, Zoning; SEQR forms and online mapping resources. Based on our review we offer the following comments:

General Comments:

1. The proposed action is the subdivision of a 22.9-acre site into 4 lots with access via a fifty-foot (50') wide access easement over adjacent lots that have frontage on Newport Bridge Road. The Applicant previously obtained variance from section 280-a of the Town Law of the State of New York by decision by Town of Warwick Zoning Board of Appeals on October 24, 2022. The proposal would result in:
 - a. a lot for an existing home on one of the resulting lots; and
 - b. 3 lots for proposed residential development.
2. This property is located within the following Town of Warwick Zoning districts and Overlay Zoning Districts. When more detailed plans are provided, additional review pertinent to natural resources and environmental effects of the project will be considered as per the standards in the following zoning and overlay districts as set forth in their corresponding sections:
 - a. Rural (RU) district, zoning sections 164-30 and 164-31, B.;
 - b. Agricultural Protection Overlay (AP-O) district, section 164-30 and 164-31, M.; and
 - c. Biodiversity Conservation Overlay (BC-O) on the northeastern portion of the site, sections 164-30 and 164-31, P., 164-34 and 164-47.9.
3. We defer to the Planning Board's Engineer regarding code review.
4. Please refer to the comments below. Although the submittal provides fairly detailed information about the proposed action, key environmental reports should be provided for SEQR review, see comments below. Accordingly, the application is incomplete. Therefore, no Planning Board action is recommended at this time. A submittal should be prepared to address the comments herein. I may have additional comments when more detailed information is provided.

SEQR Comments:

5. Given the submittal is incomplete, no Planning Board SEQR action is recommended at this time. A submittal should be prepared to provide more detailed information about the proposed action by providing a more detailed site plan set.
6. Please refer to the Short Environmental Assessment Form (Short EAF) and Plan Comments below that relate to the identification of the site's natural resources, areas of potential environmental impact and corresponding recommended development practices and mitigation.

Short Environmental Assessment Form Comments:

7. The response to Short EAF question 12. b., indicates the site is sensitive for archaeological sites. Consultation with the New York State Office of Parks Recreation and Historic Preservation (NYS OPRHP or SHPO) is recommended early in the review and the design of the project. It is our understanding the Applicant's representatives have already made an initial submittal via SHPO's Cultural Resource Information System (CRIS) some time ago and that the response indicated the need for Phase 1A and Phase 1 B cultural (archaeological/historical) resource investigations reports to be prepared. We understand an Archaeologist may begin

work soon on these reports. Given SHPO's 30-day response period, as soon as the Phase 1A and Phase 1 B reports are ready, we strongly suggest that the Applicant's Archaeologist (cultural resource specialist) should make the submittal of those reports via SHPO's CRIS right away. The cultural resource specialists are well-versed in navigating the CRIS, which would facilitate the project's review process.

8. Please provide copies of all materials submitted via the CRIS to the Planning Board.
9. The response to Short EAF question 13. a., indicates the site contains wetlands and/or waterbodies regulated by "a federal, state or local agency". New York State Department of Environmental Conservation's (NYSDEC's) EAF Mapper platform information for a Full EAF indicates that there may be both federal and state wetland areas on the subdivision site. Provide a copy of any wetland delineation and report that resulted in the apparent wetland area being drawn in the plan set.
10. If a wetland delineation and report has not yet been done, it is recommended that such a report be prepared and submitted for review.
11. In response to question 14, it appears that "Forest" and "Wetland" should be checked as habitat types near the site, given apparent wooded and wetland areas on the site.
12. In response to question 15, the Threatened or Endangered species noted is the Indiana Bat. Provide a habitat assessment for the site, including this species, noting other species on the site.
13. Additionally, provide narrative about areas of the site intended for preservation, generally and in related to the species noted above; and the specific preservation and/or mitigation measures proposed.

Plan Comments:

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

14. It is recommended that an existing conditions plan be provided as part of the plan set showing vegetated and wooded areas, including existing large trees in open areas, meadow or lawn areas, rocky areas or outcrops, etc.
15. The proposed development plan sheets should show all of these existing natural features; and whether and where such areas would be disturbed, removed or retained and preserved.
16. It is unclear why there are 3 small, disturbed areas (surrounded by the legend symbol for "Approx. Limit of Disturbance") in the eastern corner of the site remote from any apparent residential lot improvements.
17. There is no label or legend item corresponding to the hash marked area in the western-northwestern area of the site to indicate what the hash marked area represents. It appears it may be a wetland area, yet it is not marked to indicate whether it is a wetland, or a federal or state wetland. Also, there does not appear to be any corresponding wetland buffer. Add labels and legend items to the plan set to show, label and define this natural feature.
18. Add, show and label any required wetland buffer area, or proposed wetland buffer.
19. There is no label or legend item corresponding to the dashed line running to and from the western-northwestern area of the site to indicate a possible stream and/or tributaries. Add labels and legend items to the plan set to show, label and define these natural features.

20. Later in the review process, revise the plan set to finalize the Town of Warwick Standard Map Notes (fill in the blanks), already shown, corresponding to the Biodiversity Conservation Notes, as site is in the BC-O (Biodiversity Conservation Overlay) Zoning District. Pending the results of a habitat assessment report, the notes may be revised.
21. It is noted that the BC-O district notation on the plan set has slightly different wording than the Town of Warwick Standard Map Notes.
22. Add the Town of Warwick Standard Map notes to the plan for the Agricultural Protection Overlay (AP-O) district.
23. Delineate the extent of the BC-O and the AP-O districts on all pertinent sheets of the plan set, existing conditions and proposed development, where pertinent.
24. Upon submittal of revised plans and other application materials and documents, we may have additional comments.

Mr. Astorino: Brian, you will need to contact our Planner, Liz Axelson regarding those comments.

Brian Friedler: Ok. Will do.

Comment #2: Applicant to discuss project.

Brian Friedler: We were last before the Board about a year ago. The application is for a proposed 4-Lot subdivision. We proposed 3 new lots. Each lot about 4 acres in size. Each lot would have a 4-bedroom home proposed on them. We had done soil tests on the property approximately a year ago. We plan on contacting the Town Engineer to witness additional soil tests within the next few weeks. We have received a 280(a) variance from the ZBA. We had also received a variance to install a fence along one of the property lines to make a little bit of a buffer from the driveway.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

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

Brian Friedler: Ok.

Laura Barca: Do you have a copy of the letter from OC Planning?

Brian Friedler: No.

Laura Barca: I will make sure you get a copy of it.

Brian Friedler: Ok.

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

Brian Friedler: Will do.

Ted Edwards: We are in the process of doing that. My attorney is drawing that up.

Comment #7: State Historic Preservation Office – Applicant will need to conduct a Phase 1A/1B archeological study; Applicant has hired an archaeologist to complete this work.

Brian Friedler: Yes. Tracker is doing that.

Comment #8: ZBA: Town Law §280(a) for access for the 3-lot subdivision by a shared driveway; §164.41C(4)(f) allowing a 6-ft fence in the front yard setback whereas a 4-ft fence is allowed. Fence must be earth-tone color. 10/24/22 ZBA variances granted.

Brian Friedler: Yes.

Comment #9: It is recommended that the Applicant use the well that is located farther from the shared driveway.

Brian Friedler: That was drilled. It just doesn't have any of the equipment. While they were drilling that well, it opened up the well. He has been using that.

Mr. Astorino: The reason is because it is by the driveway. Laura, is that correct?

Laura Barca: Correct. I have spoken to the Health Department.

Brian Friedler: Does it have to be at a certain distance?

Laura Barca: Yes. The Health Department had stated to use the new one.

Brian Friedler: Do you know what the distance is?

Laura Barca: I don't know. I have told them that there are two wells located there. I explained to the Health Department about that. They had said to use the further well from the driveway.

Ted Edwards: Could you find out how far it has to be?

Laura Barca: You would have to reach out to Steve at the OCHD.

Brian Friedler: I could find that out.

Ted Edwards: It is a perfectly working well.

Mr. Astorino: You would have to verify to this Board that it is permissible for either well. The OCHD would determine that.

Comment #10: Applicant to show the approximate septic system locations for all existing homes (26-1-30.2, 26-1-116, 26-1-117 and two septic systems on 26-1-118).

Brian Friedler: Will do.

Comment #11: Applicant to show the existing buried propane tank location for parcel 26-1-117.

Brian Friedler: Ok. It is on the plan. It is small lettering. We will fix that.

Comment #12: Applicant to clarify that the property is in compliance with §153-1 (not more than one abandoned or unlicensed non-farm vehicle can be on property).

Brian Friedler: We are in the process of getting that removed.

Comment #13: 911 addresses must be obtained from the Building Department and then shown on the plan.

Brian Friedler: Yes. Will do.

Comment #14: Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.” Sheet C-1, Note 10

Brian Friedler: Yes.

Comment #15: Surveyor to certify that iron rods have been set at all property corners.

Brian Friedler: Yes.

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

Brian Friedler: Ok.

Comment #17: A cost estimate for the shared driveway that must be paved in its entirety must be submitted before the Board takes an action.

Brian Friedler: Ok.

Mr. Bollenbach: Regarding Comment #16, we would need a declaration for that. We might also need wetland and endangered species.

Mr. Astorino: We will add that. But we would have to wait and see if that would be applicable.

Mr. Bollenbach: Yes.

Comment #18: The shared driveway bond, landscape bond, and site inspection fees must be submitted prior to the maps being signed.

Brian Friedler: Right. There is no landscaping being proposed. We are just putting up a fence.

Mr. Astorino: Let us leave that comment as a place keeper. We have not had a public hearing on this yet.

Brian Friedler: Ok.

Mr. Bollenbach: There are street trees.

Mr. Astorino: We understand. That is why we are leaving that comment as a place keeper.

Mr. Bollenbach: Ok.

Comment #19: Payment in lieu of parkland for three lots per Town of Warwick Town Code §75-3.A.(2)(a)[3].

Brian Friedler: Ok.

Comment #20: Payment of all fees.

Brian Friedler: Ok.

Mr. Astorino: Do any Board members or Professionals have any comments? You have some issues with SEQRA that needs to be addressed.

Brian Friedler: Could the Board set us for a public hearing?

Mr. Astorino: How does the Board feel about setting the application for a public hearing? I feel that the SEQRA comments would need to be addressed first.

Brian Friedler: We would address that first before we would ask to be on an agenda for a public hearing.

Liz Axelson: I don't recommend it being set for a public hearing. There is still a timeline for the Phase I. We are not even close to being able to deal with SEQRA. That would be my recommendation.

Mr. Showalter: I agree. You need to get SEQRA done first.

Brian Friedler: Ok. Will do. Thank you.

Other Considerations:

1. **Wheeler Road Estates Subdivision** – Letter from Nicholas Rugnetta, P&P Engineering, dated 5/5/23 addressed to the Planning Board in regards to the Wheeler Road Estates Subdivision – requesting 35th 6-Month Extension on Preliminary Approval of a proposed 31-Lot Cluster subdivision + 3-Affordable Homes, situated on tax parcel SBL # 8-2-44.223; parcels located along the northerly side of Wheeler Rd. (C.R. 41) at the intersection with Dussenbury Drive, in the SL zone, of the Town of Warwick. Preliminary Approval was granted on 11/2/05. *The Applicants has stated that they are working on addressing the final comments received by the Town Consultants. The Applicant is also working with the Town Board to address the final items required for approval. The 35th 6-Month Extension on Preliminary Approval becomes effective on 5/2/23.*

Mr. Bollenbach: The Applicant has submitted a plan for the Drainage District. Laura and I are reviewing those documents. We have made a recommendation to the Town Board for acceptance of the Drainage District.

Mr. Astorino: They are diligently working on it.

Mr. McConnell makes a motion on the Wheeler Road Estates Subdivision application, granting a 35th 6-Month Extensions on Preliminary Approval of a proposed 31-Lot Cluster subdivision + 3-Affordable Homes, SBL # 8-2-44.223. Preliminary Approval was granted on, 11/2/05.

The 35th 6-Month Extension on Preliminary Approval becomes effective on, 5/2/23.

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

2. **DOORWAYTO, LLC.** – Letter from Dave Higgins, dated 5/17/23 addressed to the Planning Board in regards to the DOORWAYTO, LLC-Lombardo Subdivision – requesting “Re-Approval” of 5th Amended conditional Final Approval of a proposed 9-Lot Cluster subdivision, situated on tax parcel SBL #18-1-31.2; parcel located at 22 Taylor Road, in the RU zone, of the Town of Warwick. 5th Amended conditional Final Approval was granted on 6/15/22. *The Applicant has stated that they are wrapping up final plan review with the PB Consultants and filing the deed for Parcel “A” and Parcel “B”. Upon completion of the Town review and acceptance, the plans will be submitted to the OC Health Department and to the PB Chairman for final signature and filing. The “Re-Approval” becomes effective on 6/15/23.*

Mr. Astorino: They are working on it. Hopefully they should be done with it very soon.

Mr. McConnell makes a motion on the DOORWAYTO, LLC., application, granting “Re-Approval” of 5th Amended conditional Final Approval of a proposed 9-Lot Cluster subdivision, situated on tax parcel S 18 B 1 L 31.2; parcel located at 22 Taylor Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. The 5th Amended conditional Final Approval was granted on 6/15/22.

The Re-Approval of 5th Amended Final Approval becomes effective on 6/15/23.

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

3. Planning Board Minutes of 5/3/23 for PB approval.

Mr. McConnell makes a motion to approve the Planning Board Minutes of 5/3/23.

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

4. Planning Board to discuss giving Positive Recommendation to the Town Board regarding Local Law Code Amendment for Chapter 164.

Mr. Kennedy makes a motion for a Positive Recommendation to the Town Board regarding Local Law Code Amendment for Chapter 164.

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

Correspondences:

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

Connie Sardo: No.

Privilege Of The Floor For Agenda Items!!

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

Mr. McConnell makes a motion to adjourn the June 7, 2023 Planning Board Meeting.

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