

TOWN OF WARWICK PLANNING BOARD

February 19, 2020

Members present: Chairman, Benjamin Astorino  
Roger Showalter, Vice-Chairman  
Dennis McConnell, Christine Little,  
Bo Kennedy, Kim Lukas, HDR  
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, February 19, 2020 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.

Mr. Astorino: Since we are in a new year, I would like to do a little housekeeping. I would like to appoint Roger Showalter as Vice-Chairman. I thank you for all your services in the past years to the Planning Board.

**Review of Submitted Maps:**

***Pulpit Rock Inn/NADA, LLC***

Application for Site Plan Approval and Special Use Permit for the construction and use of a proposed 21,269 s.f. hotel and (6) 8-unit cottages A/K/A Pulpit Rock Inn, situated on tax parcel S 43 B 1 L 48; project located on the southern side of West Street Ext., 1,010± feet east of County Route 1, in the SL zone, of the Town of Warwick. ***\*\*Public Scoping Session for the Draft Scoping Document was held on 12/18/19 with the written comment period open until 1/2/20.\*\****

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Jane Samuelson from Engineering Properties & Surveying. John Cappello, Attorney.

Mr. Astorino: Ted, please give us a quick rundown on SEQRA.

Mr. Fink: The Planning Board on October of 2019 issued a Positive Declaration. The Applicant would be required to prepare a Draft Environmental Impact Statement (DEIS). The 1<sup>st</sup> step in the process was for the Applicant to prepare a Draft Scoping Document to outline all of the various issues that they believe should be included in the DEIS. We have a Draft Scoping Document. There was a Public Scoping Session that was conducted on December 18, 2019. There were many people that came to that meeting. They had oral comments that they submitted to the Planning Board that night. The Board left the written comment period open until January 2, 2020 for anyone that had written comments that they wanted to submit in addition to that. We had comments that came in from the NYSDEC, Town Engineer, Planning Board Members and from other Agencies. We had about 40 different comments. What we had done was work with Laura Barca and Kim Lukas from HDR Engineering to integrate all of those comments into the Final Scoping Document that you have before you tonight. That would be the next step in the process tonight for the Board to consider adopting the Final Scoping Document if it is satisfied that we have included all of the relevant comments that were made on the Draft Scoping Document that the Applicant had proposed. I have prepared the Final Scoping Document. There were (2) documents prepared. Once document shows what has changed from the Applicant's proposal in their

Draft Scoping Document and the Final Scoping Document that would be ready for adoption tonight. We also have a clean copy of the document where there are no revision marks or redlining that could be adopted by the Planning Board if they so choose to do so tonight. I have also prepared a Draft Resolution for the Board's consideration to adopt the Final Scoping Document. Once that happens the next step would be and there is no timeframe involved would be for the Applicant to take the Final Scoping Document to prepare their DEIS. Once that has been submitted to the Board, it would be the Final Scoping Document that is actually the document that the Board uses as a guideline for reviewing whether or not the Applicant's DEIS is complete. Those are pretty much the steps for now.

Mr. Astorino: Ok. Do any Board members or Professionals have any comments or concerns on the Draft Scoping Document? I thought it was very thorough and complete. I appreciate that. Now to the Applicant, Jane you just provided us 2 minutes ago a letter and you emailed it to the Board about 1.5 hours ago. You have a few concerns here as far as the Scoping Document. That is fine. But, I am not going to ask my Professionals or Board members to discuss that this evening. If you would like to discuss it, that would be fine. You were provided a copy of the document as in here a day late. Quite frankly, I don't think that was an issue. I was in contact with our Professionals through the whole process. This Board had said from the onset that it would be thorough. If they needed a few more hours to make it thorough, it is going to be thorough. If one day made that big of a difference to you, I don't think so.

Jane Samuelson: We would have preferred to have this conversation at the Work Shop last week. But the document was not ready for us to review.

Mr. Astorino: Ok. This is what I recommend to the Board. We should "Table" this for this evening. We will have a discussion with our Professionals and Board members with this document that you have provided to us this evening. Is the Board in agreement with that?

Mr. McConnell: Yes.

Ms. Little: Yes.

Mr. Kennedy: Yes.

Mr. Astorino: John, do we need a motion for that?

Mr. Bollenbach: Yes.

Mr. McConnell makes a motion to "Table" the Pulpit Rock Inn Draft Scoping Document to a further meeting.

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

John Cappello: I would like to add for the record to the extent that you needed. This letter that we have was not intended to criticize the Board.

Mr. Astorino: I am not saying that it is criticism. My point is that I am going to speak to the Board's Professionals and be thorough. Getting this an hour before the Planning Board Meeting does not make it thorough. That is where we are at.

Jane Samuelson: We just received the document last Thursday.

Mr. Astorino: Jane, I know when we received it. My point is that every Board member here had a chance to read it. You could comment on it. You have now brought this to our attention. We will be thorough again.

Ms. Little: I have a comment on this letter that was handed to us tonight on where it was highlighted on the first page. It states, what is the purpose of scoping? It is to narrow issues and ensure that the DEIS will be a concise, accurate and complete document that is adequate for public review. Is that a direct definition?

John Cappello: Yes. It was taken from the SEQRA Regulations. As in our other quotes, we had regarding the alternative. The alternative chosen is how to be reasonable alternatives that are within the objectives of the project that are talked about. I am not going to discuss it. We agree with you. Regarding to the timeframe in SEQRA as to the timing to adopt the Scoping Document. I want to put on the record that we agree and consent to that so that there are no misunderstandings that we acknowledge that we submitted tonight. We would like to have a little more discussion. We agree with 99% of what is in here so we could be working in that time. We want to work with the Board. We would like to have a little more discussion on a few of these issues where we would think that we would be spending time and energy to something that would not be moving the ball forward that is examining something that may not really need to be examined.

Mr. Astorino: We could have that discussion. I for one have read that document. I think everything was covered thoroughly. If there is an issue, I think it could be something that could be answered that is something not so "time consuming" for you to answer that question and to satisfy the Planning Board's question. I don't think there was anything onerous in this document. I am not having this discussion this evening. We will discuss it at a further date.

John Cappello: Right. We will clarify a little more before a Work Session.

Mr. Astorino: To the members of the public, we are not acting on anything tonight. There was a correspondence that the Applicant had brought to our attention. As I had said from day one, we do a thorough review. This is just a continuation of a thorough review. Thank you.

***Cox 2-Lot Subdivision #2***

Application for Sketch Plat Review of a proposed 2-Lot Minor Subdivision, situated on tax parcel S 61 B 1 L 38.2, parcel located on the western side of Old Tuxedo Road 300 feet south of Nelson Road (35 Old Tuxedo Road), in the MT Zone, of the Town of Warwick.

Representing the applicant: Brian Friedler from Lehman & Getz Engineering.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – no comments received
4. Architectural Review Board – no comments received
5. OC Planning Department – pending comments
6. TW Building Department – 02/05/20 open permit for oil tank removal and installation (#22921)
7. NYS Parks, Recreation, and Historic Preservation letter dated January 30, 2020 – no impact letter.
8. ZBA: Lot 1 does not appear to conform to the Town of Warwick Code definition of lot width (§164-22 Terms Defined). The lot width for Lot 1 is 240-ft and is required to be 300-ft. PB attorney to determine if ZBA variance is required.
9. The driveway extending to the home on Lot 1 should be shown (or labeled).
10. The existing well on Lot 1 must be shown on the plans.
11. A replacement septic system location must be shown on Lot 1. The engineer shall test the soil to confirm suitability for future septic system installation and the replacement area must be shown on the drawing. There is curtain drain outlet piping being placed beneath an existing stone wall. Please indicate whether the stone wall is to remain or if any portions are to be removed.
12. Updated 911 addresses must be obtained from the Building Department and then shown on the plan.
13. Visual Impact Analysis if Applicant would like a 35-ft home in the Ridgeline Overlay District; a house of 25-ft or less does not require this Analysis to be completed.
14. The Town of Warwick Standard Notes for projects that are in the immediate area of the former Penaluna Landfill shall be added to the plans.
15. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”
16. Surveyor to certify that iron rods have been set at all property corners.
17. The liber and page for the Ridgeline Overlay, Aquifer Protection, and Penaluna Landfill proximity Notes must be added to the plan.
18. A legal description and declaration for the dedication strips to the Town for highway purposes will need to be submitted for the Town Board’s consideration. Applicant to clarify if Applicant is proposing to dedicate portion of parcel to the Town for Town highway purposes.

## 19. Payment of all fees.

The following comment submitted by the Conservation Board:

Cox 2-Lot Subdivision #2 – None submitted.

The following comment submitted by the ARB:

Cox 2-Lot Subdivision #2 – None submitted.

1. Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has submitted a short EAF to the Planning Board. This is an Unlisted Action. There are no other Involved or Interested Agencies. The Planning Board could go ahead and declare itself Lead Agency. I have prepared a Draft Resolution for the Planning Board's consideration.

Mr. McConnell makes a motion for the Lead Agency.

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

617.6

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

Name of Action: Cox Subdivision

Whereas, the Town of Warwick Planning Board is in receipt of an application for Subdivision approval for a 26 ± acre parcel of land located at 35 Old Tuxedo Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 1/29/20 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 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.

2. Applicant to discuss project.

Brian Friedler: This is a proposed 2-Lot subdivision situated on approximately 26-acres. The Applicant proposes to have a 5-acre lot for a new dwelling. They want to leave 21 acres for the existing house. We had done soil tests back in January. We found the soils to be good for a septic system. I plan on doing more soil testing with HDR in about a week or so.

Mr. Astorino: John, in regards to Comment #8 the ZBA. It states that lot 1 does not appear to conform to the Town of Warwick Code definition of lot width (§164-22 Terms Defined). The lot width for Lot 1 is 240i-ft and is required to be 300-ft. Do they have to go to the ZBA for this? It seems like they do by this comment.

Mr. Bollenbach: No. They do not. In §164-41C (2) Exceptions to Bulk Requirements regarding lot width. It states that the required lot width along the public road frontage may be decreased by 25% if the median lot width conforms to the minimum width requirement. It would generally be 300-foot lot width. If lot 1 does conform with that they would not need to go to the ZBA.

Mr. Astorino: Could we strike Comment #8?

Mr. Bollenbach: Yes. What would be required for lot 1 on your required and proposed, the required minimum would be 225 feet. The proposed would be 240-feet with the 225-feet put an \*on there to reference that particular Code Section and have it stated at the bottom where you have some other verbiage that is not applicable.

Mr. Astorino: Ok.

Mr. Bollenbach: Regarding Comment #17 the Penaluna Landfill proximity notes that has to do with water testing. I would like for you to know what that is. There are also criteria for foundations, construction, vapor barriers, etc...

Brian Friedler: Ok.

3. Conservation Board – no comments received
4. Architectural Review Board – no comments received
5. OC Planning Department – pending comments

6. TW Building Department – 02/05/20 open permit for oil tank removal and installation (#22921)
7. NYS Parks, Recreation, and Historic Preservation letter dated January 30, 2020 – no impact letter.
8. ZBA: Lot 1 does not appear to conform to the Town of Warwick Code definition of lot width (§164-22 Terms Defined). The lot width for Lot 1 is 240-ft and is required to be 300-ft. PB attorney to determine if ZBA variance is required.
9. The driveway extending to the home on Lot 1 should be shown (or labeled).

Brian Friedler: Yes.

10. The existing well on Lot 1 must be shown on the plans.

Brian Friedler: Yes.

11. A replacement septic system location must be shown on Lot 1. The engineer shall test the soil to confirm suitability for future septic system installation and the replacement area must be shown on the drawing. There is curtain drain outlet piping being placed beneath an existing stone wall. Please indicate whether the stone wall is to remain or if any portions are to be removed.

Brian Friedler: Yes. Will do.

12. Updated 911 addresses must be obtained from the Building Department and then shown on the plan.

Brian Friedler: Yes. Will do.

13. Visual Impact Analysis if Applicant would like a 35-ft home in the Ridgeline Overlay District; a house of 25-ft or less does not require this Analysis to be completed.

Brian Friedler: Ok. Will do 25 feet.

14. The Town of Warwick Standard Notes for projects that are in the immediate area of the former Penaluna Landfill shall be added to the plans.

Brian Friedler: Yes.

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

Brian Friedler: Yes.

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

Brian Friedler: Ok.

17. The liber and page for the Ridgeline Overlay, Aquifer Protection, and Penaluna Landfill proximity Notes must be added to the plan.

Brian Friedler: Ok.

18. A legal description and declaration for the dedication strips to the Town for highway purposes will need to be submitted for the Town Board's consideration. Applicant to clarify if Applicant is proposing to dedicate portion of parcel to the Town for Town highway purposes.

Brian Friedler: Ok.

19. Payment of all fees.

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

Mr. Astorino: I don't see a problem with that.

**Mr. Showalter makes a motion to set the Cox Subdivision #2 for a Final Public Hearing at the next available agenda.**

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

Brian Friedler: Thank you.



**Other Considerations:**

1. Planning Board Minutes of 12/18/19 for PB Approval.

Ms. Little makes a motion to Approve the Planning Board Minutes of 12/18/19.

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

2. Planning Board to cancel 2/24/20-W.S. & 3/4/20-PB Meeting.

Ms. Little makes a motion to cancel the 2/24/20-W.S. & 3/4/20-PB Meeting.

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

3. **Continental View Estates** – Letter from Karen Emmerich, Lehman & Getz Engineering, dated 12/23/19 addressed to the Planning Board in regards to the Continental View Estates/Winslow Subdivision – requesting 3<sup>rd</sup> Re-Approval of Final Approval of a proposed 4-Lot subdivision, situated on tax parcel SBL #55-1-93; parcel located at 1433 State Hwy 17A, in the MT/CO zones of the Town of Warwick. Conditional Final Approval was granted on 1/18/17. *The Applicant has stated that the Attorney is completing the required legal documents so that the plans can be signed. They have also stated that all of the other conditions have been addressed.* The 3<sup>rd</sup> Re-Approval of Final Approval becomes effective on 1/18/20, subject to the conditions of final approval granted on 1/18/17.

Representing the Applicant: Karen Emmerich from Lehman & Getz Engineering.

Karen Emmerich: Apparently, we are very close. I called Brian Gibson the Attorney who is handling this now. He took it over from Alan Lipman. He had said that all of the documents have been signed. They had to provide a Certificate of Good Standing in which that had to be worked out. That is now done. Brian told me he thought everything would be recorded today and he would be providing the information to John. I was hoping you would have received that today, but it is not. It is in the works though.

Mr. Bollenbach: There are a couple of other outstanding issues regarding title policy. That was when we had discovered that Winslow does not own the property. It is the CLC Foundation. We will also need a revised proxy for the application for the CLC authorizing Winslow to proceed.

Karen Emmerich: Right. I think Brian is aware of all that.

Mr. Bollenbach: Yes. He is.

Karen Emmerich: That will all be provided to you with the filing of the Declarations.

Mr. McConnell makes a motion on the Continental View Estates application, granting “3<sup>rd</sup> Re-Approval” of Final Approval of a proposed 4-Lot subdivision, situated on tax parcel SBL # 55-1-93; parcel located on the southwestern side of State Hwy 17A 400 feet south of State Hwy 17A (1433 St. Hwy 17A), in the MT/CO zones, of the Town of Warwick, County of Orange, State of New York, subject to conditions of Final Approval granted on 1/18/17.

The 3<sup>rd</sup> Re-Approval of Final Approval becomes effective on 1/18/20.

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

4. **Pawelski Lot Line Change** – Letter from Caleb Pawelski, Pietrazak & Pfau Engineering, dated 2/5/20 addressed to the Planning Board in regards to the Pawelski Lot Line Change – requesting 6-Month Extension on conditional Final Approval of a proposed lot line change, situated on tax parcel 6-2-4 & 7; parcels located on the northern side of Quaker Creek Lane south of Pulaski Hwy., in the AI zone, of the Town of Warwick. Conditional Final Approval was granted on 8/21/19. *The Applicant has stated that they are working on the conditions of final approval and finalizing the legal descriptions to be recorded & filed.* The 6-Month Extension becomes effective on 2/21/20.

Ms. Little makes a motion on the Pawelski Lot Line Change application, granting a 6-Month Extension on conditional Final Approval for a proposed Lot Line Change, (SBL #6-2-4 & 7). Conditional Final Approval was granted on 8/21/19.

The 6-Month Extension becomes effective on 2/21/20.

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

### **Correspondences:**

1. Letter from Mary Ann Knight from Town of Warwick Historical Society addressed to the Planning Board dated 1/24/20 in regards to the Pulpit Rock Inn.

Mr. Astorino: We have that in our packets.

### **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 February 19, 2020 Planning Board Meeting.**

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